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OF

THE MAJOR WAR CRIMINALS

BEFORE

THE INTERNATIONAL MILITARY TRIBUNAL

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PROCEEDINGS

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ONE HUNDRED AND NINETIETH DAY

Tuesday, 30 July 1946

Morning Session

GENERAL R. A. RUDENKO (Chief Prosecutor for the U.S.S.R.): Gentlemen of the Tribunal.

I already indicated in my opening statement that the action of forcibly deporting peaceful civilians—men, women, and children—for forced labor into Germany was one of the most important in the chain of foul crimes committed by the German fascist invaders. The decisive role in this sinister crime was enacted by the Defendant Fritz Sauckel. During cross-examination in this courtroom, Defendant Sauckel could not help but admit that during the war about 10 million slave laborers, originating both from occupied territories and from the ranks of the prisoners of war, were utilized in German industries and partly for German agricultural labor.

While admitting the deportation to Germany and the utilization for the war industries of Hitlerite Germany of millions of workers from the occupied territories, Sauckel denied the criminal character of this action, affirming that the recruitment of labor was allegedly carried out on a voluntary basis. This assertion is not only a lie but a slander against the millions of honest patriots of the Soviet Union, of Czechoslovakia, Yugoslavia, Poland, France, and Holland who, devoted to their country, were forcibly sent for labor into Hitlerite Germany.

The attempts of Defendant Sauckel to depict his part of Plenipotentiary General for the Allocation of Labor as consisting merely in the co-ordination and control of other government labor organizations are futile. As the Plenipotentiary General for the Allocation of Labor, Sauckel was invested by Hitler with supreme and all-encompassing powers and was in these activities directly and personally subordinated to Göring. And Sauckel extensively used these full powers in order to deport to Germany labor from the occupied territories.

There is no need to refer to the extensive documentary evidence presented to the Tribunal, which irrefutably establishes the criminal

character of the methods of mass deportation into slavery of the population of occupied territories, nor to the role of the Defendant Sauckel in organizing these crimes.

How far these crimes extended is shown in the operation carried out by the German military and civil authorities, coded under the name "Hay Action," which provided for the forced deportation of children from the age of 10 to 14 into slavery, as well as for the deportation of Ukrainian girls destined by Hitler for Germanization.

The Defendant Sauckel has tried to assure the Tribunal that he had complied strictly with the provisions of the Geneva and Hague Conventions concerning the utilization of labor of prisoners of war. His own instructions, however, fully expose his lies. The Defendant Sauckel had planned beforehand the forced utilization of Soviet war prisoners for the war industry in Germany and never made any distinction between them and civilian labor.

The inhuman conditions under which the foreign workers and prisoners of war deported for slavery lived, are testified to by the numerous documents submitted as evidence. The Defendant Sauckel himself was obliged to admit that foreign workers were kept in camps with barbed wire and were obliged to wear special identification badges. The witness Dr. Wilhelm Jäger, summoned to the Tribunal by the defendant's counsel for Sauckel, was obliged to give a picture of the awful conditions under which the enslaved workers at Krupp's works existed. After all this, the deposition of the other witness, Fritz Wieshofer, seems actually ridiculous when, in trying to exonerate Sauckel, he manifestly overdid it by informing the Tribunal that he, himself, allegedly saw foreign workers walking and enjoying themselves in the Prater in Vienna.

The Defendant Sauckel displayed great activity in committing all these crimes. In April 1943 he personally visited the towns of Rovno, Kiev, Dniepropetrovsk, Zaporozhie, Simferopol, Minsk, Riga, and in June of the same year Prague, Kraków, and again Kiev, Zaporozhie, and Melitopol in order to speed up the deportation of labor. And it was as a result of his journey to the Ukraine in 1943 that Sauckel expressed his gratitude for the successful mobilization of labor forces to the Reich Commissioner for the Ukraine, Koch, known for the drastic, cruel measures which he applied to the fullest extent to the Ukrainian population.

And it is not mere chance that the criminal activities of Sauckel's were so highly appreciated in Hitlerite Germany. On 6 August 1942 the Defendant Göring declared at the conference of the Reich commissioners for the occupied territories:

"I do not wish to praise Gauleiter Sauckel. He does not need it. But what he has done in so short a time in order to gather workers and to have them brought to our enterprises is a

unique achievement. I must tell everybody, gentlemen, that if each of you applied but one-tenth of the energy applied by Gauleiter Sauckel, it would be easy indeed to fulfill the tasks imposed upon you . . ."

In the article published in the *Reichsarbeitsblatt* for 1944 and dedicated to Sauckel's fiftieth anniversary it was said:

"True to his political task, he pursues his responsible course with unyielding consistency and tenacity, with a fanatical belief. As one of the most faithful adherents of Hitler, he draws his creative and spiritual strength from the Führer's trust in him."

When estimating Sauckel's criminal activity, Your Honors will surely consider the tears shed by the millions of people who languished in German slavery, of the thousands of people tortured in inhuman conditions in the workers' camps—you will consider this and will judge accordingly.

The Defendant Arthur Seyss-Inquart was appointed by Hitler Chief of the Civil Administration in southern Poland at the beginning of September 1939, and since 12 October of the same year Deputy Governor of Poland. He occupied this post till May 1940.

For 7 months Seyss-Inquart, under the leadership of Frank and jointly with him, had personally conducted a regime of terror in Poland, and he took an active part in elaborating and realizing the plans for the extermination of many thousands of people, for the economic plunder and enslavement of the people of the Polish State.

On 17 November 1939 Seyss-Inquart addressed the chiefs of the administration and departments of the Warsaw Government, mentioning among other things that:

"When the German administration acted in the Government General its guiding principle should be the interests of the German Reich. By means of a severe and unrelenting administration this region should be utilized for German economy; and, in order not to show any undue leniency, one should try to visualize the consequences of Polish penetration into German territory."

Two days later Seyss-Inquart instructed the Lublin Governor, SS Brigadeführer Schmidt, on the same question in the following way:

"The resources and the inhabitants of this country should serve Germany, and they may prosper only within these limits. The development of independent political thinking cannot be permitted. Perhaps the Vistula will have an even greater significance for the fate of Germany than the Rhine" (Exhibit USA-706).

From the report on an official journey of Seyss-Inquart we learn that the Governor of Warsaw, Fischer, informed the defendant that all valuables of the Warsaw Bank in gold, precious metals, and bills of exchange had been transferred to the Reichsbank, while the Polish inhabitants were obliged to leave their deposits in the banks; that the German administration was employing forced labor; that the Lublin Governor Schmidt declared in the presence of Seyss-Inquart: "This territory with its strongly-marked swampy nature could serve as a reservation for the Jews; this measure would possibly lead to a decimation of the Jews."

I draw the attention of the Tribunal to the fact that it was exactly at Maidanek near Lublin where the Hitlerite hangmen erected an enormous extermination camp in which they killed about a million and a half human beings.

It is also known that Seyss-Inquart, as Frank's deputy, carried out "special tasks" on his behalf. On 8 December 1939 Seyss-Inquart took part in a conference at which the following subjects were discussed: The appointment of Frank as deputy to the Delegate for the Four Year Plan and the economic exploitation of the Government General for the best interests of the Reich; the arrival of numerous trains with Jews and Poles from the newly-acquired territories, which transportations would continue—according to SS Obergruppenführer Krüger—till the middle of December; the issuing of a supplementary order extending labor duty to the age group 14 to 18. On 21 April 1940 the defendant took part in the conference at which plans for forced deportation of Polish workers to Germany were elaborated. On 16 May 1940 the defendant took part in the elaboration of the "AB Action," which was nothing but a premeditated plan of mass extermination of the Polish intellectuals. In connection with the appointment of Seyss-Inquart as Reich Commissioner for the Netherlands, Frank and his worthy deputy exchanged farewell speeches:

> "I am exceedingly glad"—said Frank—"to assure you that the memory of your work in the Government General will live forever when the future German Reich of peace has been created...
>
> "I have learned much here"—answered Seyss-Inquart "... and this because of the initiative and firm leadership of the kind I saw in my friend, Dr. Frank....
>
> "... all my thoughts are connected with the East. In the East we have a National Socialist mission, in the West we have a task."

Seyss-Inquart's task in the West, as well as that of the other Reich ministers and commissioners in all territories occupied by the Germans, is well known: It is the function of hangman and plunderer.

My colleagues have given the details about the criminal part played by Seyss-Inquart when annexing Austria and realizing other aggressive plans of the Hitlerite conspiracy. They have clearly shown how Seyss-Inquart applied in the Netherlands the bloody experience gained by him while collaborating with Frank in Poland. For this reason I fully support the charges against Seyss-Inquart as formulated in the Indictment.

As early as 1932, while still Reich Chancellor of the German Republic, the Defendant Franz von Papen actively contributed to the development of the fascist movement in Germany.

Papen rescinded the decree of his predecessor Brüning prohibiting the activities of the SA. It was he who had overthrown the Braun-Severing Social Democrat Government in Prussia. These measures greatly strengthened the position of the fascists and contributed to their accession to power. Thus Papen cleared the way for Hitler. Having secured the power for the Nazis, Papen himself assumed the post of Vice Chancellor in Hitler's Cabinet. In this capacity Von Papen participated in the elaboration and the promulgation of a series of legislative acts aimed at the consolidation of German fascism. And later on, for many years, until the collapse of Hitlerite Germany, Von Papen remained true to his fascist friends and participated to the utmost of his abilities in the realization of the criminal conspiracy.

The Defendant Von Papen is attempting now to explain his role in the development of the fascist movement and in Hitler's seizure of power in terms of the political situation of the country which, he says, made Hitler's accession to power unavoidable. The real motives which guided Von Papen were different: They were that he himself was a convinced fascist devoted to Hitler.

Speaking at Essen on 2 November 1933, during the election campaign for the Reichstag, Papen declared:

> "Ever since Providence called upon me to become the pioneer of national resurrection and of the rebirth of our homeland, I have tried to support with all my strength the work of the National Socialist movement and its leader; just as I, at the time of taking over the chancellorship, have helped pave the way to power for the young, fighting, patriotic movement, just as I on 30 January was selected by a providential fate to place the hands of our Chancellor and Führer into the hand of our beloved Field Marshal, so do I today again feel the obligation to say to the German people and all those who have kept confidence in me: The kind Lord has blessed Germany by giving her in times of dire need a leader who will lead her with the unerring instinct of the statesman through

distress and weaknesses, through all crises and dangers, into a happy future."

The International Military Tribunal will fully estimate the criminal activities of the Defendant Von Papen, who played a decisive part in the seizure of power by Hitler and in so doing contributed in creating the dark powers of fascism which plunged the world into bloody wars and caused unspeakable misery.

Long before the Nazis came to power the architect Albert Speer was a personal friend of the draftsman Hitler and remained so until the end. Not only common professional interests, but political interests also brought them together. Speer began his career in 1932 with the reconstruction of the Brown House, the headquarters of the NSDAP in Berlin, and in 10 years' time he was at the head of all military construction and war production in fascist Germany. Starting with the construction of the buildings of the Reichsparteitag, Speer ended by setting up the Atlantic Wall.

Speer held an important post in the Government and military machinery of Hitler's Germany and played a direct and active part in planning and realizing the criminal conspiracy.

What is Speer's line of defense at the Trial? Speer presents his case in the following way: He was pressed by Hitler to take on the post of Minister; he was an intimate friend of Hitler's, but he knew nothing about his plans. He had been a member of the Nazi Party for 14 years, but he was far from politics and had never even read *Mein Kampf*. It is true that upon being given the lie Speer confessed that he had lied during his preliminary interrogation. Speer lied when he denied that he had ever belonged to the SA and then to the SS. The Tribunal possesses the original file of the SS man Albert Speer, who belonged to the personal staff of the Reichsführer SS Himmler.

Speer also held a rather high rank in the Nazi Party. In the Party Chancellery he was a delegate for all technical questions; he headed the Main Office for Engineering of the Party; he directed the union of German National Socialist technicians; he was deputy for the staff of Hess, and a leader of one of the major German Labor Front organizations.

After all this can Speer's declaration that he was a specialist indifferent to politics be given credence? In reality, as a close collaborator of Hitler, Hess, Ley, and Göring, he directed German engineering not only as Reich Minister, but also as a fascist political leader.

Upon succeeding to Todt, Speer, as he expressed himself in his speech before the Gauleiter, devoted himself completely to war tasks. By means of the pitiless exploitation of the population in the

occupied territories and of the prisoners of war of the Allied countries, at the expense of the health and lives of hundreds of thousands of people, Speer increased the production of armament and ammunition for the German Army.

By plundering the raw materials and other resources of the occupied territories, Speer, by all possible means, increased the war potential of Hitler's Germany. His powers grew with every month of the war. By Hitler's decree of 2 September 1943 Speer became plenipotentiary and the responsible man for the supply of raw materials, for the direction and production of war industry. He was even commissioned to regulate the turnover of commodities, and by Hitler's decree of 24 August 1944 Speer was practically made dictator of all German offices, in Germany as well as in the occupied territories, whose activity was in any way connected with the strengthening of the German war potential.

And when the fascist fliers bombed peaceful towns and villages, thereby killing women, old men, and children, when the German artillery bombarded Leningrad, when the Hitlerite pirates sank hospital ships, when English towns were bombed by the V-weapon—all this came as a result of Speer's activity. Under his leadership the production of gas and of other weapons of chemical warfare had been greatly increased. The defendant himself, when interrogated by Justice Jackson at the Trial, confessed that three factories were producing gas and that they were working at full speed till November 1944.

Speer not only knew of methods used by Sauckel for deporting the population from the occupied territories for slave labor, but he himself took part, together with Sauckel, in conferences with Hitler and of the Central Planning Board where decisions were taken to deport millions of people to Germany from the occupied territories.

Speer kept up a close contact with Himmler; he received from Himmler prisoners for work in war factories; branches of concentration camps were organized in many factories subordinated to Speer. In recognition of Himmler's services, Speer supplied the SS with experienced specialists and with supplementary war equipment.

Speer has spoken quite a bit here about his having sharply criticized Hitler's close circle, that he had allegedly had very serious differences with Hitler and that, in his letters to Hitler, he had written about the futility of continuing the war. When the representative of the Soviet Prosecution asked Speer which of the persons close to Hitler he had criticized and in what connection, the defendant answered, "I shall not tell you."

It is quite evident that Speer not only did not want to, but that in fact he could not tell, for the simple reason that he had never criticized anyone who was close to Hitler and could not do so as

he was a convinced Nazi himself and belonged to this close circle. As to the so-called serious differences, they began, as Speer admitted, when it became clear to him that Germany had lost the war. Speer's letters to Hitler are dated March 1945. At that time Speer could without great risk depict Germany's hopeless condition. It was apparent to everyone and was no longer a subject of discussion. And it was not by accident that after these letters Speer still remained Hitler's favorite. It was precisely Speer whom Hitler appointed on 30 March 1945 to direct measures for the total destruction of the industrial enterprises by obliging all Party, State, and military offices to render him all possible help.

That is the true picture of the Defendant Speer and the real part played by him in the crimes committed by the Hitler clique.

Constantin von Neurath's part in the consolidation of the Nazi conspirators' power and in the preparation and realization of aggressive plans is a remarkable one.

Over a period of many years, whenever traces had to be covered up, when acts of aggression were to be veiled by diplomatic manipulations, Neurath, fascist diplomat and SS general, came to the help of the Hitlerites, bringing them his long experience of world affairs.

May I remind you of the high official appraisal of Neurath's activity which appeared in all the newspapers of fascist Germany on 2 February 1943:

> "Germany's leaving the Geneva Disarmament Conference on 14 October 1933, the return of the Saar territory, and the denunciation of the Locarno Treaty will rank among the most outstanding political events since the inauguration of the Nazi regime. In these Baron von Neurath played a decisive part and his name will always be connected with them."

In his capacity of Reich Protector of Bohemia and Moravia Neurath represented to the Nazi conspirators those "firm and reliable hands" of which General Friderici wrote in his memorandum, which were to transform the Czechoslovak Republic into an "indissoluble part of Germany." In order to attain that object Neurath established the notorious "New Order," the nature of which is now known to all.

Neurath attempted to assert here that all the atrocities were committed by the Police and Gestapo, upon Himmler's direct order, and that he knew nothing of them. It is quite comprehensible that Neurath should say so, but one can hardly agree with him.

Interrogated on 7 March 1946, Karl Frank testified that Neurath received regularly the reports of the Chief of Security Police, as well as those of Frank himself, regarding the "most important

events in the Protectorate" pertaining to the Security Police. He stated also that it was possible for Neurath to issue directives to the Reich Security Police, and that he did indeed do so; while, as far as the SD was concerned, his powers were still greater, depending in no way upon the consent of the Reich Security Main Office.

I wish also to recall to your memory Paragraphs 11, 13, and 14 of the decree, issued on 1 September 1939 by the Reich Defense Council, which proves that the Reichsführer SS and Chief of the German Police carried out administrative measures in Bohemia and Moravia with the knowledge of the Reich Protector, and that the German Security Police agencies in the Protectorate were obliged to inform the Reich Protector as well as the offices subordinated to him and to keep them aware of all major events.

If I add that on 5 May 1939 the Defendant Neurath appointed an SD Leader and Plenipotentiary of the Security Police to the post of his political reporter; if we recall the testimony read to the court of Richard Bienert, the former Czech Minister President under Neurath, in which it says that the Gestapo carried out arrests on orders of the Reich Protector, we can hardly have any doubt but that Neurath gave his sanction to the mass arrests, summary executions, and other inhuman acts committed by the Gestapo and Police in Czechoslovakia.

I will pass on to the events of 17 November 1939 when nine students were shot without trial, while over a thousand were thrown into concentration camps and all the Czech high schools and universities were closed for 3 years.

Neurath said that he heard of these acts of terror *post factum*. But we have submitted to the Tribunal a public announcement of the shooting and arrests of the students which bears Neurath's signature. Neurath then seeks another loophole. He declares that Frank signed this announcement in his—Neurath's—name, and to be more convincing he even adds that later he heard from an official that Frank often misused his name in documents. Are Neurath's statements to be credited? One has only to analyze briefly the actual facts in order to answer this question in the negative. Neurath says that Frank misused his name. What did Neurath do in answer to this? Did he demand Frank's resignation or his punishment for forgery? No. Did he, perhaps, report this forgery officially to somebody? No. On the contrary, he continued to collaborate with Frank as before. Neurath says that he heard of Frank's misuses from an official. Who is that official? What is his name? Why was no application made to call him to the witness stand or at least to secure his written testimony? This is simply because nobody spoke to Neurath of Frank having forged his signature on the documents, and nobody could have done so,

for there was no forgery. On the contrary, the Tribunal has evidence which confirms the fact that the announcement of 17 November 1939 was signed by Neurath and that the terroristic measures mentioned therein were actually sanctioned by him. I am speaking of two statements of Karl Frank who directly participated in these bloody events.

During his interrogation on 26 November 1945 Karl Frank testified:

> "This document, dated 17 November 1939, was signed by Von Neurath, who did not protest either against the shooting of the nine students or against the deportation of numerous students to the concentration camps."

I quote Karl Frank's second testimony on this matter, dated 7 March 1946:

> "By signing the official announcement which informed the public of the shooting of the students Reich Protector Von Neurath sanctioned this action. I informed Von Neurath in detail of the course of the investigation and he signed the announcement. Had he not agreed and had he demanded a modification of the penalty, or its mitigation—and he had a right to do so—I would have been obliged to accede to his opinion."

In August 1939, in connection with the "extraordinary situation" by which he proclaimed Bohemia and Moravia to be an integral part of the Greater German Reich, Neurath issued a so-called warning. Therein he stipulated that "not only individual perpetrators but the entire Czech population would be responsible for all acts of sabotage" (Document USSR-495). Thereby he established the principle of collective responsibility and introduced the hostage system. The events of 17 November 1939, considered in the light of this directive of Neurath, supply more irrefutable proof against the defendant.

Starting from 1 September 1939 some 8,000 Czechs were arrested as hostages in Bohemia and Moravia. The majority were sent to concentration camps; many were executed or died of hunger and torture. On this subject you have heard, Your Honors, the testimonies of Bienert, Krejci, and Havelka. There is no doubt that these terror acts against the Czech intellectuals were carried out in conformity with Neurath's warning.

I need not relate in detail all the events which took place at Lidice and later in the village of Lestraki as they are already well known. Were not the German invaders acting in accordance with Neurath's warning? Did they not conform to his principle that the entire Czech population, and not the individual persons, must bear the responsibility?

It was Neurath who initiated mass terror against the Czechoslovak population in August 1939. He has on his hands the blood of many thousands of women and men, children and old people, murdered and tortured to death. And I see no difference between Baron von Neurath and the other ringleaders of the criminal fascist regime.

The Defendant Hans Fritzsche's part in the conspiracy, the War Crimes, and the Crimes against Humanity is certainly greater than it might appear at first glance.

The criminal activity of Fritzsche, Goebbels' closest assistant, carried out systematically day after day, constitutes a very important link in the Common Plan or Conspiracy and contributed effectively to the creation of the conditions under which the numerous crimes of the Hitlerites were conceived and nurtured.

All the attempts made by the defendant himself and his counsel to minimize his importance and the part he played in the perpetration of these crimes have clearly failed.

In *Mein Kampf* Hitler describes the very special part attributed to mendacious propaganda in Nazi Germany. He wrote:

"The problem of the revival of German might is not 'how we will make weapons' but 'how we will create the spirit which will make our people capable of bearing weapons.' If this spirit pervades the people, the will power shall discover thousands of ways and each of them will lead to weapons."

I am quoting from Pages 365 and 366 of *Mein Kampf*, sixty-fourth edition, 1933.

Neither is it by chance that the following slogans were proclaimed at the Congress of the Nazi Party in 1936 at Nuremberg:

"Propaganda helped us to come to power; propaganda helps us to keep power; propaganda will help us to conquer the world."

Owing to his position, the Defendant Fritzsche was certainly one of the most outstanding propagandists and also one of the best-informed persons in Nazi Germany. He enjoyed Goebbels' particular confidence.

As we know, from 1938 till 1942 Fritzsche was head of one of the key departments of the Propaganda Ministry, that of the German Press. And from 1942 until the defeat of Hitler's Germany he was head of the German radio communication service.

Having grown up as a journalist of the reactionary press of Hugenberg, Fritzsche, who was a member of the Nazi Party since 1933, in his capacity of Government spokesman played an important part in the dissemination of fascist propaganda throughout Germany and in the political and moral disintegration of the German people. This was testified to in detail by witnesses such as former

Field Marshal of the German Army Ferdinand Schörner and former Vice Admiral Hans Voss. The Defendant Fritzsche's broadcasts, intercepted by the BBC, and submitted to the Tribunal as Document 3064-PS and Exhibit USSR-496, fully confirm these charges of the Prosecution.

German propaganda in general, and the Defendant Fritzsche in particular, made full use of provocative methods, lies, and slanderous statements, and this was especially the case when Nazi Germany's acts of aggression had to be justified. For did not Hitler himself write in *Mein Kampf*, Page 302:

> "With the help of a propaganda skillfully and continually applied even heaven can be represented as hell to the people and on the contrary, the most miserable life can be represented as heaven."

Fritzsche turned out to be the best man to carry out this dirty work.

In his affidavits, submitted to the Tribunal and dated 7 January 1946, Fritzsche gave a detailed description of the provocative methods applied on such a vast scale by German propaganda and by him personally in connection with the acts of aggression against Austria, the Sudetenland, Bohemia and Moravia, Poland, and Yugoslavia.

On 9 April and 2 May 1940 Fritzsche broadcast mendacious explanations of the reasons which led to the occupation of Norway by Germany. He declared, "Nobody was wounded, not one house was destroyed, life and work continued unhindered as before." Meanwhile, the official report presented by the Norwegian Government states:

> "The German attack against Norway on 9 April 1940 brought war to Norway for the first time in 126 years. For 2 months war was fought throughout the country, causing destruction. Over 40,000 houses were damaged or destroyed and about 2,000 civilians were killed."

German propaganda and Fritzsche personally spread insolent lies in connection with the sinking of the British passenger steamer *Athenia*. But German propaganda was particularly active on the occasion of Hitler Germany's treacherous attack upon the Soviet Union.

The Defendant Fritzsche has attempted to assert that he first heard of the attack upon the Soviet Union when he was called on 22 June 1941 at 5 o'clock in the morning to a press conference held by Foreign Minister Von Ribbentrop. As far as the aggressive purposes of this attack were concerned, he allegedly had learned of them only through his personal observations, in 1942. However,

these statements are refuted by such documentary evidence as the report of Defendant Rosenberg. This document establishes the fact that a long time before the attack upon the U.S.S.R., Fritzsche knew of the appropriate measures which were being taken and that in his capacity of representative of the Propaganda Ministry he participated in the elaboration of propaganda measures for the East by the Ministry for the Occupied Eastern Territories.

In answer to the questions put to him by the Soviet Prosecution during his cross-examination Fritzsche stated that he would not have gone with Hitler had he had knowledge of the Hitler Government's criminal orders, of which he heard for the first time here in court. And here again, Fritzsche told the International Military Tribunal an untruth. Thus he was compelled to admit that he had knowledge of the criminal Hitler orders regarding the extermination of Jews and the shooting of Soviet commissars as early as 1942. And yet he continued thereafter to remain at his post and to spread mendacious propaganda. In his broadcasts on 16 June and 1 July 1944, Fritzsche ballyhooed the new weapons being used, doing his best to incite the Army and the people to further senseless resistance.

And even on the eve of the collapse of Nazi Germany, on 7 April 1945, Fritzsche broadcast an appeal to the German people to continue their resistance to the Allied armies and to join in the Werewolf movement.

Thus, the Defendant Fritzsche remained true to the last to the criminal Hitlerite regime. He gave his entire self to the task of realizing the fascist conspiracy and of perpetrating all the crimes which were planned and carried out in order to put that conspiracy into effect. As an active participant in all the Hitlerite crimes, he must bear the fullest responsibility for them.

Your Honors, all the defendants have passed before you—men without honor or conscience; men who hurled the world into an abyss of misery and suffering and brought enormous calamities upon their own people; political adventurers who stopped at no evil deed in order to achieve their criminal designs; brummagem demagogues who concealed their predatory plans behind a veil of mendacious ideas; hangmen who murdered millions of innocent people—these men formed a gang of conspirators, seized power and transformed the German State machinery into an instrument for their crimes.

Now, the hour of reckoning has come. For the past 9 months, we have been observing the former rulers of fascist Germany. In the dock before this Court they have suddenly become meek and humble. Some of them even actually condemned Hitler. But they do not blame Hitler for waging a war or for the exterminating

of peoples and plundering of states; the only thing they cannot forgive him is defeat. Together with Hitler, they were ready to exterminate millions of human beings, to enslave civilized mankind in order to achieve their criminal aim of world domination.

But history decided otherwise. Victory did not follow upon the steps of crime. Victory came to the freedom-loving nations. Truth triumphed and we are proud to say that justice meted out by the International Military Tribunal will be the justice of the righteous cause of peace-loving nations.

The Defense spoke about humanity. We know that the concepts of civilization and humanity, democracy and humanity, peace and humanity are inseparable. But we, the champions of civilization, democracy, and peace—we positively reject that form of humanity which is considerate to the murderers and indifferent to their victims. Counsel for Kaltenbrunner also spoke here of love for mankind. In connection with Kaltenbrunner's name and actions all mention of love for mankind sounds blasphemy.

Your Lordship, Your Honors, my statement concludes the case for the Prosecution. Speaking here on behalf of the peoples of the Union of Soviet Socialist Republics, I consider all the charges against the defendants as fully proven. And in the name of the sincere love of mankind which inspires the peoples who made the supreme sacrifice to save for the world freedom and culture, in memory of the millions of innocent human beings slaughtered by a gang of murders who are now before the court of civilized mankind, in the name of the happiness and the peaceful labor of future generations, I appeal to the Tribunal to sentence all the defendants without exception to the supreme penalty—death. Such a verdict will be greeted with satisfaction by all progressive mankind.

THE PRESIDENT (Lord Justice Sir Geoffrey Lawrence): Now we will deal with the applications for witnesses and documents by counsel for the SA.

MAJOR J. HARCOURT BARRINGTON (Junior Counsel for the United Kingdom): May it please the Tribunal, there were initially seven witnesses applied for for the SA: four for the General SA; two for the Stahlhelm, and one for the SA Reiterkorps (Riding Corps). Since then there has been an eighth application for a witness for the Stahlhelm who, I understand, is to be a substitution for the other two for the Stahlhelm. That would reduce the total number of witnesses applied for for the SA to six. All those originally applied for have already been heard by the Commission, but the one recently applied for, by the name of Gruss, has not yet been heard by the Commission; and if the Tribunal approve of that witness, it would involve his being heard by the Commission now.

I apprehend that the Tribunal will have the recommendation of the Commission before them when they are deciding this. In the circumstances, the Prosecution only desire to say that they have no objection to these applications.

THE PRESIDENT: That means no objection to any of them?

MAJOR BARRINGTON: No objection to any of them, on the understanding, My Lord, that Gruss is applied for in substitution for the other two Stahlhelm witnesses, Waldenfels and Hauffe.

THE PRESIDENT: Yes, Dr. Böhm?

HERR GEORG BÖHM (Counsel for SA): I have applied for the witnesses Jüttner, Bock, Klähn, Schäfer, Van den Borch, and primarily Waldenfels and Hauffe to be heard as witnesses for the SA.

The witness Hauffe has been applied for because it has not been possible to bring one witness, who had been allowed, to Nuremberg; that was the witness Gruss. Concerning the witness Gruss, I should like to apply for him to be questioned before the Commission so that he can also be heard before the Tribunal. Gruss could be called only a few days ago, although my application to hear him had already been made in the month of May, and a search had to be made for him for 2 months. He is an important witness for the Stahlhelm in the SA, and because of his position of Treasurer in the Stahlhelm he knows about conditions throughout Germany, particularly for the period after 1935. But as I can make the application for the witness to be heard here only after he has been before the Commission, I beg that it be granted that this witness be heard by the Commission. I will not, however, give up the witness Waldenfels on that account, so that the situation will be that for the SA not six but seven witnesses are to be heard, as had been provided for originally.

THE PRESIDENT: Well, what would be the names?

HERR BÖHM: Jüttner, Bock, Klähn, Schäfer, Van den Borch, Waldenfels, and Gruss.

But I should like to ask, Mr. President, since I do not as yet know the extent of the testimony of the witness Gruss, to be permitted to choose between the two witnesses Gruss and Hauffe. That is, after the witness Gruss has been heard by the Commission, I should like to be permitted to decide whether, besides the witness Waldenfels, I shall want to apply for the witness Hauffe or the witness Gruss for questioning.

THE PRESIDENT: Is that all you wish to say, Dr. Böhm?

HERR BÖHM: In connection with the witnesses, yes, Mr. President, but I should like to speak in connection with the document book for the SA, if I may be permitted.

THE PRESIDENT: Mr. Barrington, do you wish to say anything more about the application which Dr. Böhm now has, which is for seven, and not for six?

MAJOR BARRINGTON: Well, the Prosecution are of the opinion that one witness for the Stahlhelm would be enough, but Your Lordship will, of course, have the Commission's recommendation on that. They will have been heard. On the question of the choice between Gruss and Hauffe after Gruss has been heard, there would be no objection to that, of course.

HERR BÖHM: Mr. President, may I say that the Stahlhelm within the SA comprised about one-fourth of the members of the SA. There were about one million people who had transferred from the Stahlhelm into the SA. And I believe that it would be in the interest of many that the evidence be confirmed by two witnesses before this Court.

THE PRESIDENT: The Tribunal will consider that matter. Now will you deal with the documents.

MAJOR BARRINGTON: Would it be convenient to Your Lordship if I started on the documents?

THE PRESIDENT: Yes.

MAJOR BARRINGTON: Agreement has been reached on the document books with the exception of one group of five documents to which the Prosecution object.

Before dealing with that group I ought to mention to the Tribunal that among the other documents which were agreed to be excluded there were a considerable number of photographs of members of the SA Reiterkorps in civilian clothes. The great majority of those photographs were excluded; a few have been included. But I just want to say this, that those photographs were intended to show that the object of the Reiterkorps was purely that of sporting activities. Of course, the Prosecution admit that the object of the Reiterkorps included sporting activities, although naturally the Prosecution say that was not their only object.

With regard to the group of five documents, I think I can take that quite briefly. I have prepared a short summary, which I think the Tribunal have at the back of that sheaf of papers.

THE PRESIDENT: Yes.

MAJOR BARRINGTON: These five documents are all extracts from writings by English writers and publicists during the period, I think, from 1936 to 1939, and they all represent, in my submission, the unofficial opinions and arguments of those writers. Your Lordship can see roughly what they are about.

The first one, SA-236, is by Mr. Dawson, in *The Nineteenth Century,* to the effect that Hitler's policy to the statesmen of Europe is for peace and not war, and that Hitler has saved Germany from chaos and collapse, that he does the same for Europe by his peace proposals.

And then SA-237, by Dr. A. J. McDonald, from the book *Why I Believe in Hitler's Germany and the Third Reich,* says:

"Perhaps the best guarantee for the stability of Hitler's regime is his own moral purity and that which he has imposed on Germany. He has tackled the problem of youth . . ."—and so on.

SA-242 is an extract from *Das Archiv* quoting Professor Cornell Evans and Professor Dawson again:

"Hitler's withdrawal from Locarno and the occupation of the Rhineland was a good thing . . ."

"Hitler's peace proposals are very valuable . . ."

"The Versailles Treaty was unjust . . ."—and so forth.

And SA-246, another extract from the *The Nineteenth Century,* illustrates "Germans marching into parts of their own country," and maintains that this is justified.

And SA-247, an extract from a book by A. P. Lorry, *The Case for Germany,* which says, "the complaint that Germany applies force is wrong, and the attack on Austria cannot be called an attack."

Now, My Lord, insofar as those extracts are intended to prove facts, they clearly don't prove any direct evidence of facts, but are purely conclusions of fact, and as such they prejudge the issues which are for the Tribunal to decide. If on the other hand, as is possible, they are intended to show that these writings led the SA to believe that the Nazi regime was a thing to be admired or was well thought of abroad, I only need to say two things: First, these were unofficial writings; secondly, there is no evidence to show that they were even read by the SA. There is no evidence in any case that they influenced the SA at all, if they were read. That is all I can say.

THE PRESIDENT: Dr. Böhm?

HERR BÖHM: Mr. President, originally I did not intend to discuss the contents to the extent to which the representative of the Prosecution has done it now. I should not like to be accused of trying to make National Socialist propaganda. But we are confronted here with short quotations from English and American writers which cause no difficulties in translating, and from which I did not intend to read anything here in Court as it is. Neither do I

intend to read the contents of these documents during my presentation of evidence, but I wanted at least to have the opportunity to refer to them during my final argument.

These quotations have appeared in German newspapers. They also appeared in collections as, for example, *Das Archiv*. Thus they were accessible to the German public and became quite well-known. It is not as if these excerpts were translated only now, and were not previously known to anybody in Germany. They appeared in the *Völkischer Beobachter* and in *Das Archiv*, and every German could read them and acquaint himself with them.

Without regard to the importance of the writers themselves or the people who made those statements in their own country, these statements are important for the Germans because the authors were men who expressed their opinions in leading foreign countries on current German problems. I would regret very much if the Court could not decide that I may be permitted to enter them into my document book. They present very little work for translation. They are not extensive and there are no obstacles connected with them.

THE PRESIDENT: Have all the documents been translated?

HERR BÖHM: I don't think they have already been translated. A considerable number were requested.

THE PRESIDENT: Are they very long?

HERR BÖHM: These five are not very long. The greater part are extracts.

THE PRESIDENT: I don't mean the five. I mean the other things.

MAJOR BARRINGTON: They vary, but for the most part they are short extracts.

HERR BÖHM: In my document book only a few documents have been translated entirely, only excerpts which I shall refer to for support during my presentation of evidence and during my final argument. Therefore, the translation of the entire document book will create very little work, and these documents which I shall also have translated certainly will not present any difficulties.

THE PRESIDENT: Is there anything further you wish to say, Dr. Böhm?

HERR BÖHM: Mr. President, unfortunately I have to make another application, which I would rather not have made, but circumstances are such that it has to be put in. I request that the witnesses Fuss, Lucke, Waldenfels, Von Alvensleben, Dr. Geyer, and Dr. Meder should also be heard before the Commission. I have already made applications for these witnesses, for the witness Fuss on 25 April; for the witness Lucke, on 7 May; for the witness Waldenfels, on 21 May; for the witness Von Alvensleben, on

20 May; for the witness Dr. Geyer, on 25 April; and for the witness Dr. Meder, on 25 April of this year.

These witnesses are important witnesses. To give only one example, the questioning of the witnesses Fuss and Lucke would mean a rebuttal of one of the most important documents in this Trial. That is Document 1721-PS in which it is charged that the Brigadeführer of Brigade 50 had reported to the Gruppenführer the burning down of about 38 synagogues.

The other witnesses whose evidence, in order to shorten proceedings, I will not discuss now, whom Colonel Neave has permitted me to question, have not yet arrived. I believe I heard yesterday that possibly Dr. Geyer arrived a few days ago. The subjects of evidence are important, and the length of time for the questioning before the Commission will be very short. I cannot possibly forego these witnesses whom I have repeatedly requested. These witnesses must be heard, and I believe that they can be brought here in time so that it would be possible still to hear them during the presentation of evidence.

THE PRESIDENT: How many is it you are asking for?

HERR BÖHM: Seven witnesses who are to be heard by the Commission—no, six witnesses.

THE PRESIDENT: How many have you already had heard before the Commission? I am told it is 16; is that right?

HERR BÖHM: Sixteen. I could not give the exact number just yet, but I am prepared to find out at once.

THE PRESIDENT: And how many have been brought to Nuremberg for the purpose of being questioned by you?

HERR BÖHM: The witnesses who have come to Nuremberg to be heard here were primarily the wrong witnesses. A number of witnesses had to come two or three times until we got the right one, for instance the witness Wolff.

THE PRESIDENT: I asked how many.

HERR BÖHM: Altogether, all the witnesses who have come only to give an affidavit, or just the witnesses who were heard by the Commission?

THE PRESIDENT: How many witnesses have been brought? How many persons have been brought to Nuremberg for the purpose of being questioned?

HERR BÖHM: Mr. President, I believe there is a matter which has to be cleared up. Witnesses have been brought here in order to be questioned by the Commission or by the Tribunal. But witnesses have also been brought here merely to make an affidavit about a particular subject that appeared important, witnesses who

would not necessarily have to be heard before the Commission or the Tribunal. These witnesses have been sent back after they had signed an affidavit.

THE PRESIDENT: I am asking you how many. How many? Can't you answer?

HERR BÖHM: Altogether? I would like to know whether the question is designed to mean the people who have been heard by the Commission, or all the witnesses who came here.

THE PRESIDENT: Well, out of the people who have come here, some of them have been examined before the Commission and others have made affidavits, and possibly there may be others who have done neither. I want to know how many in all.

HERR BÖHM: I believe 16. I cannot give the exact figure because I did not question all of them. I would like permission to determine the exact number after the recess.

THE PRESIDENT: The Tribunal will adjourn.

[A recess was taken.]

THE PRESIDENT: I will deal first with the documents. The documents to which no objection has been made will be translated and will be admitted, subject to objections as to their admissibility. The documents to which objections have already been made, namely SA-236, 237, 242, 246, and 247, are all rejected and will not be translated.

With reference to the witnesses applied for, the following witnesses who have been examined before the Commission may be examined before the Tribunal: The witness Schäfer, the witness Jüttner, either the witness Bock or the witness Klähn according as counsel for the SA decides; and one out of the three witnesses, Waldenfels, Hauffe, and Gruss—to be examined before the Commission. Van den Borch is not allowed, but his evidence may be given by affidavit. With reference to the other six witnesses for whom application has been made, every effort is being made to trace them and if they arrive within a week from today, that is to say, on or before Tuesday of next week, they will be heard before the Commission. That is all.

HERR BÖHM: Mr. President, may I make a brief explanation? The Court has just approved the witnesses Waldenfels, Hauffe, and Gruss to be examined before the Commission.

THE PRESIDENT: No, the witnesses Waldenfels, Hauffe, and Gruss have already been examined before the Commission, have they not?

HERR BÖHM: Yes.

THE PRESIDENT: What I said was that you must choose one out of the three witnesses: Waldenfels, Hauffe and Gruss—after Gruss has been examined before the Commission. One out of the three, so that in all you will have four witnesses: Schäfer, Jüttner, one out of Bock and Klähn, and one out of Waldenfels, Hauffe, and Gruss, making four. And you will have Van den Borch on affidavit.

HERR BÖHM: Yes.

THE PRESIDENT: Mr. Barrington, with reference to the Reich Cabinet, I see there is one witness that has not yet been granted as a witness, and that is the witness Schlegelberger, who has not yet appeared before the Commission. Yes, Dr. Kempner?

DR. ROBERT KEMPNER (Assistant Trial Counsel for the United States): Schlegelberger was questioned before the Commission yesterday.

THE PRESIDENT: Is there any objection . . .

DR. KEMPNER: No.

THE PRESIDENT: Then, are there any other witnesses for the Reich Cabinet?

DR. KEMPNER: Not that I know of.

THE PRESIDENT: It would perhaps save time if we granted him now. Are there any documents not agreed on for the Reich Cabinet?

DR. KEMPNER: We already examined all the documents.

THE PRESIDENT: You agreed? Well, very well.

DR. KEMPNER: Thank you.

THE PRESIDENT: And now we will hear the witnesses for the political leaders.

DR. ROBERT SERVATIUS (Counsel for Leadership Corps of the Nazi Party): Mr. President, according to the decision of 25 and 26 July, I am first to offer the documents and affidavits so that they may be incorporated into the record. Should I do that first or should I first examine the witness? According to the decision I should do it first and that is what I prepared.

THE PRESIDENT: Very well, do it that way.

DR. SERVATIUS: According to the decision of 25 July, the evidence is first to be submitted. The evaluation of the evidence is to follow the final presentation, so that I will submit only the evidence now without any special comment. I act according to the decision.

First, I present a list of the witnesses examined before the Commission which I submit in evidence. There are 20 witnesses. They are the following, if I may read the list. Does the Court consider it necessary for me to read the list of witnesses?

THE PRESIDENT: I do not think you need read the names of the witnesses. If you would offer, formally, the transcripts of their evidence before the Commission, that will be sufficient.

DR. SERVATIUS: Yes, very well. I submit the copies of the records in evidence, the originals of which the Commission has. The record of the witness Mohr is still missing. He is Number 7 on the list. I have not yet received this record. I will submit it later.

THE PRESIDENT: Then the General Secretary will file the original of the transcripts.

DR. SERVATIUS: Yes.

THE PRESIDENT: And you will give it some number, I suppose, some exhibit number?

DR. SERVATIUS: Yes, I will adjust the exhibit numbers after consulting the General Secretary since it is not yet clear how the documents will be arranged.

THE PRESIDENT: Very well.

DR. SERVATIUS: Then I submit . . .

THE PRESIDENT: Wait a minute. You will adjust that with the General Secretary as to whether or not it is necessary to give these transcripts on evidence before the Commission an exhibit number or not?

DR. SERVATIUS: Yes, I will adjust it.

Then I will submit a list of affidavits which have been approved by the Commission. There are 52 of them. The list contains those documents the translation of which was approved by the Commission and thought especially important. The affidavits themselves are in the hands of the Commission and I will discuss with the General Secretary in what form they should be submitted as an exhibit.

According to the decision, I have summed up these affidavits in writing. If the Court wishes, I will read this summary which contains an explanation of this document, but I do not believe that it will be of great use at the moment; it will be better if it is read later in the proper connection.

THE PRESIDENT: Very well.

DR. SERVATIUS: Then I would like to submit further affidavits which are not yet available and which have not yet been dealt with before the Commission. There are 139,000 affidavits which are

divided into definite groups. These groups have been gone over by members of the organizations who are in prison here, and one collective affidavit has been made for each group. Three especially important and typical affidavits have been added to these collective affidavits. I could submit the majority of the pertinent documents to the Tribunal, and will offer them to the Court if I am given the opportunity. I would like to discuss with the General Secretary as to how they should be submitted.

In effect, there are 12 different groups—that will be 12 affidavits with three appendixes to the most important ones: On the Church question, on the question of low-level flying, and on the question of concentration camps. Those are nine groups.

Then I have two groups—that is to say, a survey of two camps—in which there are many thousands, so that one can get a clear picture of the opinion of the inmates of the camp. They are also summed up in an affidavit with a few appendixes.

I have attempted to compile this great amount of material so that the Court will be in a position to take judicial notice of it, and I would like to submit it in its entirety so that the Court will perhaps be able to examine some picked at random and be convinced of its correctness.

THE PRESIDENT: As I understand it, there are 139,000 affidavits. You have divided them into 12 groups?

DR. SERVATIUS: Yes.

THE PRESIDENT: And you have 12 collective affidavits for these 12 groups?

DR. SERVATIUS: Yes.

THE PRESIDENT: To be appended to each of these 12 collective affidavits are two or three . . .

DR. SERVATIUS: There are three. As I have just seen, a larger number is appended. I will go over them again and reduce them so that there will be no more than three to each group.

THE PRESIDENT: Dr. Servatius, then the Tribunal thinks that the whole 139,000 should be deposited with the Tribunal, and the 12 collective affidavits with the appended affidavits will doubtless be of great convenience to the Tribunal. The Commission will receive them and approve them, yes, and then they will be deposited before the Tribunal.

DR. SERVATIUS: Then I have to submit the document books which the Tribunal has; I have the originals of the documents here and I submit them. There are two documents which I cannot submit in the original—two, to be explicit, which are at the University of Erlangen. The first one, Document PL-15, is

the book *Die Amtsträger der Partei (The Officials of the Party).* And Document PL-78 is the book *Das Recht der NSDAP (Law of the NSDAP)* by Dr. Hein and Dr. Fischer. All the others I have submitted. A large part of the documents are taken from collections of documents and from books which are already in the library of the Prosecution. The title of these collections of documents is shown by the heading of the document concerned in the document book. I ask that these collections of documents and books, to be found in the library of the Prosecution, be designated as the originals.

THE PRESIDENT: Yes, subject to any objections.

DR. SERVATIUS: Then I have finished with the presentation of evidence submitted before the Commission, and now, with the permission of the Court, I shall call my witnesses. With the permission of the Court, I will call the witness Gauleiter Kaufmann.

[The witness Kaufmann took the stand.]

THE PRESIDENT: Will you state your full name, please?

KARL OTTO KURT KAUFMANN (Witness): Karl Otto Kurt Kaufmann.

THE PRESIDENT: Will you repeat this oath after me: I swear by God—the Almighty and Omniscient—that I will speak the pure truth—and will withhold and add nothing.

[The witness repeated the oath in German.]

THE PRESIDENT: You may sit down.

DR. SERVATIUS: Witness, you were a Gauleiter from 1925 to 1926 in the Gau Ruhr and from 1928 to 1945 in the Gau Hamburg?

KAUFMANN: Yes.

DR. SERVATIUS: How many people lived in these Gaue?

KAUFMANN: In the Ruhr about 7 to 8 million; in the Gau Hamburg about 1.8 million.

DR. SERVATIUS: Do you know anything about conditions in other Gaue?

KAUFMANN: More or less, yes.

DR. SERVATIUS: In 1921 you joined the Party and after the dissolution of the Party again in 1925?

KAUFMANN: Yes.

DR. SERVATIUS: And in the meantime you were a laborer, from 1921 to 1925, in the Ruhr district and in Upper Bavaria?

KAUFMANN: No, from 1923 to 1925.

DR. SERVATIUS: According to National Socialist terminology, when is a person a political leader?

KAUFMANN: A man holds this position when he has been nominated for it, when he is in possession of the appropriate documents and has the right to wear a uniform.

DR. SERVATIUS: Were Block- and Zellenleiter among the political leaders?

KAUFMANN: Yes.

THE PRESIDENT: Dr. Servatius, will you ask the date of the witness' birth?

DR. SERVATIUS: Witness, when were you born?

KAUFMANN: I was born on 10 October 1900.

DR. SERVATIUS: Were not the Block- and Zellenleiter a different type of political leader from the political leaders in higher position?

KAUFMANN: The Block- and Zellenleiter were small executive organs of the Ortsgruppenleiter.

DR. SERVATIUS: Was the activity of the Block- and Zellenleiter subordinate in significance to that of the Amtsleiter in the local groups, or in their staffs?

KAUFMANN: Under the Amtsleiter of the local groups there were essential tasks and nonessential tasks. Those in charge of the essential tasks were more important than those in charge of the nonessential tasks.

DR. SERVATIUS: Were not the Block- and Zellenleiter officials and especially important political leaders?

KAUFMANN: I have already said that they were officials, but only small executing organs of the local group leader.

SIR DAVID MAXWELL-FYFE (Deputy Chief Prosecutor for the United Kingdom): My Lord, I wonder if I might make a suggestion for the consideration of the Court. I think it would be more helpful if the translator could use the German term, because we are all used to it in this context, and continue to use the Ortsgruppenleiter instead of "leader of a local group," because when we use a term like "local group" there may be some difficulty as to what the reference is. I just put it for a suggestion. Personally, it would be helpful to me. I don't know if the Court will agree.

THE PRESIDENT: Yes, certainly.

DR. SERVATIUS: What was the general practical activity of the political leaders? How was it before the war and how was it after the beginning of the war?

KAUFMANN: The activity of the political leaders was according to the office they held. There were political leaders who were purely technical experts and there were political leaders who had

tasks of political leadership. The tasks before the seizure of power were, as in any party, essentially to make propaganda for the Party idea, to organize the Party, and in election campaigns to recruit votes among the population for the success of the Party. After the seizure of power, the essential activity of the political leaders consisted primarily in social welfare work for the population and in the realization of the social aims. In addition, there were organizational questions, training tasks, and propaganda questions. During the war these tasks were determined by the course of the war itself and in addition to the large social problems in peacetime we had the food and shelter problems brought about by the war.

DR. SERVATIUS: How large was the number of political leaders before the war and during the war?

KAUFMANN: I can only give figures from my Gau. I estimate the number of political leaders in the Gau Hamburg before the war at about 10,000, without auxiliary branches. The number was greatly curtailed by the fact that many were drafted during the war.

DR. SERVATIUS: How large was the percentage of political leaders in your Gau who were drafted for military service?

KAUFMANN: Aside from armament—for many political leaders were only honorary officials—a maximum of 10 percent of the Party were classed as indispensable at the beginning of the war.

DR. SERVATIUS: Who, therefore, remained in the Gau?

KAUFMANN: In 1944, in the age groups of 1900 and younger, there were 12 for the whole Party in Hamburg, with the exception of administration and armament.

DR. SERVATIUS: Do you mean 12 percent?

KAUFMANN: No, 12 men.

DR. SERVATIUS: And in percentage?

KAUFMANN: I estimate 6,000 political leaders.

DR. SERVATIUS: On the staffs of the Gau, Kreis, and Ortsgruppenleiter were also the heads of the technical offices. Did these officials of the technical offices (Amtswalter) have political leadership tasks?

KAUFMANN: No. The great majority of political leaders in the technical offices were concerned exclusively with technical matters of their organizations.

DR. SERVATIUS: Did the officials of the technical offices take part in all staff discussions or were there smaller and bigger staffs?

KAUFMANN: That depended on the subject of the discussion. If it was of general political interest a larger circle was included;

if it was a discussion which concerned only special offices, the circle was limited to these.

DR. SERVATIUS: Was the office of political leader taken voluntarily, or as a duty, or on a compulsory basis?

KAUFMANN: Here again one must distinguish between two periods; before the seizure of power, of course, it was voluntary. After the seizure of power every Party member was obliged, as a matter of principle, to co-operate. I personally considered it important to maintain the principle of volunteer work in the Gau under all circumstances because, as you can understand, I did not expect any political success from forced co-operation. I know that the matter was dealt with in a similar way in other Gaue.

DR. SERVATIUS: Why did Party members refuse to take honorary offices as political leaders; was this done for political reasons or for personal reasons?

KAUFMANN: The reasons varied. Some refused because they were too busy in their occupation—that is especially true of many professions during the war; and others refused because they did not want to expose themselves politically.

DR. SERVATIUS: What was the activity of the Blockleiter?

KAUFMANN: The Blockleiter were the assistants of the Ortsgruppenleiter. When it was necessary in peace and in war to approach the population, usually in the case of social measures, the Ortsgruppenleiter used the services of the Blockleiter. In the Gau Hamburg the Block and Zellenleiter as well as the whole Party, in war and peace, were primarily concerned with social work and welfare measures.

DR. SERVATIUS: From where did the Gauleiter get their instructions?

KAUFMANN: The Gauleiter received their instructions from the Führer. They were directly subordinate to the Führer. Upon his order they received instructions from the Deputy of the Führer and in some cases from the Party Chancellery on behalf of the Führer.

DR. SERVATIUS: Could the Reichsleiter also give instructions to the Gauleiter?

KAUFMANN: No, the Reichsleiter were limited to their specialized offices in the Gaue. The Gauleiter had the right to stop measures transmitted through this channel and originating from a Reichsleiter if he considered them inexpedient. In the case of differences, the Deputy of the Führer or the Führer himself decided.

DR. SERVATIUS: How were the Gauleiter instructed on political intentions and measures?

KAUFMANN: The basic political intentions and measures of the Führer were known to us through the Party program and in part through his book *Mein Kampf*. Accordingly, the propaganda and practical training of our co-workers was effected. After the seizure of power, the Gauleiter were informed of intended political actions, especially foreign political ones, but also domestic ones, only after the action had taken place.

DR. SERVATIUS: Were there orders, instructions, or conferences? What can you say about that?

KAUFMANN: There were conferences which took place comparatively seldom.

DR. SERVATIUS: In which form did these conferences take place?

KAUFMANN: For the Party leaders, in the form of Reichsleiter and Gauleiter conferences. I must correct myself—not conferences but meetings.

DR. SERVATIUS: What is the difference between a conference and a meeting?

KAUFMANN: In a conference I see a possibility of discussion. This possibility of discussion in Führer conferences existed without restriction up to the resignation of Strasser in 1932, in a limited form until the departure of Hess, but it altogether disappeared when Hess was no longer there. From this time on, the meetings consisted exclusively of the issuing of orders, at which there was no possibility for discussion or for inquiry. These meetings were directed by Bormann.

The other way was through circular letters. Through circular letters, direct orders of the Führer or orders in the name of the Führer were transmitted to us—at first through the Deputy of the Führer and later through the Party Chancellery. That was essentially the channel of command that was customary.

DR. SERVATIUS: Did conferences with the Reichsleiter take place?

KAUFMANN: I do not recall any conference at which all Gauleiter were present with all Reichsleiter.

DR. SERVATIUS: Did leading political leaders have special tasks outside of their activities as political leaders?

KAUFMANN: There were high functionaries of the Party who, besides their Party office, had State and other offices. There were also those who were limited exclusively to their Party office.

DR. SERVATIUS: What was the content of the instruction which the political leaders received through official Party channels? Must one make a distinction between various periods—up to the seizure of power, up to the war, and during the war?

KAUFMANN: I have already partially answered that question. I can sum up briefly: Before the war they were of an organizational and propagandistic nature and during the war they were determined by the tasks of war, in the main dealing with social measures.

DR. SERVATIUS: Did the political leaders receive instructions on Point 1 of the Party program, which in effect contained the Anschluss of Austria to Germany, and did such instructions refer to the preparation of war of aggression?

KAUFMANN: The political leaders were in no way informed about the Anschluss of Austria, the way in which it was done, or the time. The Anschluss of Austria was, of course, the goal of the Party, because Austria's desire for an Anschluss was known or became known to the political leaders from 1918 on, through the law of the then Chancellor Renner as a result of the plebiscite in 1921 of the Federal State of Salzburg and Tyrol, and later through Austrian reaction to the entry of German troops or to the Anschluss.

DR. SERVATIUS: Did you receive instructions on Point 2 of the Party program which refers to the denunciation of the Versailles Treaty? Did these instructions refer to the preparation of a war of aggression?

KAUFMANN: The revision of the Versailles Treaty—and I emphasize revision—was an essential part of our political aims. The political leaders were, before the war and even before the seizure of power, of the firm conviction that this aim would have to be achieved by way of revision, that is, by way of negotiation. The political leaders never received any other instruction on methods by which to attain this goal in all the time before the war.

DR. SERVATIUS: Did you receive instructions on Point 3 of the program, which demands land for settlement? Did such instructions refer to the preparation for a war of aggression?

KAUFMANN: This point of the program—I believe it is a point of the program—was understood by the political leaders—and they were instructed to that effect—to mean the return of the German colonies. The discussions on other territories did not arise before the war, but only during the war. I emphasize, discussion.

DR. SERVATIUS: What instructions did you receive on the Jewish question, which is dealt with from Point 4 to 8 of the Party program? Did such instructions refer to the removal of the Jews because they would interfere with the war of aggression?

KAUFMANN: The program points on the Jewish question were definitely set up. The attitude on the Jewish question varied greatly. The political leaders with whom I was in contact were instructed by me, at least, that this question could be solved only in a constructive way, that is, by a basic change in the existing system. Training and propaganda on this point never had anything to do with wars of aggression.

DR. SERVATIUS: What instruction did you receive on the Church question, Point 24 of the Party program? Did you receive instructions to eliminate the Church as an enemy of war?

KAUFMANN: I never received such instructions based on such reasoning, nor did my political leaders. In spite of the interpretation which the different personalities of the Party gave this point, the program point acknowledging positive Christianity remained binding until the end for my political leaders. That is proved by the fact that the majority of the political leaders were and remained members of the Church.

DR. SERVATIUS: What instructions did you receive on Point 25 of the Party program on the dissolution of labor unions? Were they to be removed as opponents of war?

KAUFMANN: No. We, and that includes my political leaders, saw in the dissolution of the labor unions only a demonstrative act of an organic development which was taking place. The mass of union members, even before the dissolution of the unions, were members of the NSBO, and thus members of the National Socialist Labor Organization.

DR. SERVATIUS: I would like to break off here. The witness Hupfauer will be questioned more closely on this subject.

Did not the Anschluss of Austria take place with the entry of German troops? Did the political leaders approve of this?

KAUFMANN: I have already mentioned that the political leaders were neither informed nor questioned on the entry of German troops into Austria and that they welcomed the Anschluss all the more because it is a historical fact that the Austrian people desired it.

DR. SERVATIUS: Was not Alsace-Lorraine again incorporated into the German Reich, and did the political leaders approve of it?

KAUFMANN: The question of the incorporation of disputed areas is a question of peace treaties. The political leaders were of the opinion that Alsace-Lorraine, for the duration of the war, was under special German civil administration, and after the victorious end of the war it was very possible that the incorporation of this territory into the German Reich could and would be a German demand, just as it was a French one after the first World War.

DR. SERVATIUS: Were not the occupied territories in the East claimed as Lebensraum and did the political leaders approve of this?

KAUFMANN: The war against Russia was described to the political leaders by the political leadership as a preventive war. And so this information for the benefit of the political leaders did not—at least at the beginning of this war—contain anything concerning intentions of annexation.

DR. SERVATIUS: Were not the churches in fact persecuted and did the political leaders approve this?

KAUFMANN: It is quite possible that, in spite of the Party program to acknowledge positive Christianity, deviation from this particular point occurred in some Gaue and the Church was exposed to some persecution in these Gaue. The Führer himself never deviated from this point of the program in his statements.

DR. SERVATIUS: Then you did not approve of this persecution?

KAUFMANN: Not only did I disapprove of the persecution, but I prohibited it in my Gau.

DR. SERVATIUS: Were not the unions actually abolished and did not the political leaders approve of it?

KAUFMANN: The political leaders and I saw in the German Labor Front the development toward a great unified labor organization. If there were any doubts, the social achievements for the German worker caused them to disappear.

DR. SERVATIUS: Were the political aims thus realized not contained as aims in the book *Mein Kampf,* and thus generally known and approved by the leaders?

KAUFMANN: The book *Mein Kampf* was certainly known to part of the political leaders, and so was the Party program. The opinion about both in the Nazi Party was like in any other party. Some points are approved and they are the reasons for joining. Other points do not seem to interest anybody, and the third group of program points can even be rejected. In every party, and in the NSDAP as well, much thinking and discussing centered around the final aims of the Party, and this process was by no means completed.

DR. SERVATIUS: Were there then various tendencies in the Party?

KAUFMANN: In important questions of interpretation of the program points, yes.

DR. SERVATIUS: What groups were they?

KAUFMANN: I should like to differentiate between three large groups—the socialistic group, which in my opinion included most of the members and followers, a more nationalistic group, and a negative anti-Semitic group.

DR. SERVATIUS: What do you mean by a negative anti-Semitic group? Is that the Streicher tendency?

KAUFMANN: If you ask me, yes.

DR. SERVATIUS: To what party tendency did you belong in the Party?

KAUFMANN: I was and am a socialist.

DR. SERVATIUS: To what group did the majority of the Reichsleiter belong?

KAUFMANN: That is very difficult to say.

DR. SERVATIUS: The Gauleiter?

KAUFMANN: The Gauleiter from the industrial areas were for the most part socialists.

DR. SERVATIUS: How about the Kreisleiter?

KAUFMANN: That depended essentially on their home district.

DR. SERVATIUS: The same is true of the Ortsgruppenleiter, Block-, and Zellenleiter?

KAUFMANN: That is true of most of the political leaders and for the mass of Party members.

DR. SERVATIUS: What was the political influence of the various groups and where was the emphasis put?

KAUFMANN: That is very difficult to say. If you speak about influence, I presume that most of the Party members like me believed in the socialistic ideals of the Führer. But that there were men in his entourage who were less interested in socialism than in other aims seems to me probable.

DR. SERVATIUS: Did you as a socialist agree with the Party leadership?

KAUFMANN: I absolutely agreed with the socialistic aims of the Führer. On the other hand I did not agree with some men in leading positions and their ideas.

DR. SERVATIUS: Why did you and other political leaders who did not agree with these aims remain in office when you saw that the main policy was deviating from socialist fields, and the persecution of the Church and Jews started?

KAUFMANN: To begin with, at no time up to the collapse did I or my associates have the impression that the socialist aims had been given up. I have already emphasized that if an old National Socialist has worked almost 25 years for his Party, it is his duty to fight as long as possible for the realization of the aims as he understands them, and that is not possible outside the Party but only

within the Party. That is one of the essential reasons why I remained in the Party.

DR. SERVATIUS: How were the subordinate Kreis- and Ortsgruppenleiter instructed?

KAUFMANN: To answer this question one must make a distinction between the city Gaue on the one hand and the provincial Gaue, on the other. In the city Gau of Hamburg the political leaders were frequently called together and received their instructions and directions orally. For the provincial Gaue this was mostly done, because of the distance, in writing, that is, their instructions were issued orally and in writing.

DR. SERVATIUS: Were the Kreisleiter instructed to the same extent as the Gauleiter or did they receive knowledge of only less important matters?

KAUFMANN: Up to the beginning of the war I do not recall any case in which my Kreisleiter—and I assume it was similar in the other Gaue—did not learn of everything that I knew about. During the war that did not hold entirely true for reasons of secrecy.

DR. SERVATIUS: Did the political leaders receive instructions to commit war crimes or to permit them? How about the lynching of low-level flyers?

KAUFMANN: Such orders as you mention were not known to me in a direct form, that is as a direct demand. I assume you are speaking, first, of the newspaper article by the former Reichsminister Dr. Goebbels; second, of the well-known decree of the Reichsführer SS to the Police; and third, of the repeatedly mentioned circular letter of Reichsleiter Bormann.

DR. SERVATIUS: Yes.

KAUFMANN: These orders were not clearly formulated in the sense of your question. I admit that their interpretation could lead to a development which then did lead in individual cases to the events described here. These orders came through the Gaustabsamt and were then sent from there to the competent Kreisleiter. The order, that is, the circular letter by Bormann, was stopped by me in my Gau—as I assume that it was done in other Gaue too—in view of the fact that, because of the intensity of air warfare and its results, I wanted to keep my political leaders from giving a dangerous interpretation to this order. In addition, in view of the Goebbels article and in view of Himmler's decree, I sent the Kreisleiter and Police presidents distinct counterorders. I hope that similar steps were taken in other Gaue.

DR. SERVATIUS: What about the treatment of foreign workers? Did you receive instructions tending toward war crimes in that regard?

KAUFMANN: All instructions which I know of in this field refer exclusively to a demand for support of the social welfare work. For me, as a socialist, it was a matter of course that my agents—that is in this case the Labor Front and the Kreisleiter—were instructed to take care of foreigners also, and I visited the camps to ascertain whether this was done.

DR. SERVATIUS: What about the concentration camps with regard to foreigners? Did you have instructions to put or help put foreigners in concentration camps? Did you know of what happened in the concentration camps?

KAUFMANN: I assume that the question of competence for the concentration camps is known to the Tribunal. As the supreme political leader of the Gau . . .

THE PRESIDENT: Dr. Servatius, I do not know what the witness means by that, that the question of competence with reference to the concentration camps is known to the Tribunal.

DR. SERVATIUS: He did not want to say that he, as a Gauleiter, was not responsible for the concentration camps themselves. He only wanted to explain that he will immediately discuss his responsibility and will not give a long explanation on competency. For that reason he said that he assumed the Tribunal was informed on that matter.

THE PRESIDENT: Then, are you saying that you were in charge of the concentration camps or responsible for them?

KAUFMANN: No, by no means.

THE PRESIDENT: Well, what do you mean by the competency for the concentration camps?

KAUFMANN: I wanted to indicate or say that I might assume that the Tribunal knows of this competency. If not, I am prepared to explain it briefly.

THE PRESIDENT: Well, will you explain it briefly?

KAUFMANN: Yes. The concentration camps, during the whole period of their formation and their management, were completely outside any knowledge or influence of the political leaders, who consequently had no authority as far as concentration camps were concerned and no idea of what actually happened in them. I myself, if I wanted to enter a camp, had to have a special written approval from the Reich Security Main Office. I believe that that is sufficient explanation.

DR. SERVATIUS: Were not flyers actually lynched and was that not so well known that every political leader knew about it and approved it by remaining in office?

KAUFMANN: I have already stated that in the Gau Hamburg such things did not take place and since I myself learned of such cases only as a prisoner, I must assume that my political leaders, like myself, learned of these things only in captivity.

DR. SERVATIUS: Was not the ill-treatment of foreign workers throughout the Reich so well known that every political leader must have known about it and approved it by remaining in office?

KAUFMANN: The political leaders were bound to their own districts, especially during the war. They could supervise only their sphere of activity and what I and my political leaders in Hamburg saw of these camps only made a favorable impression. The Kreisleiter had the obligation, where there were deficiencies and poor conditions, to take steps together with the Labor Front and industrial leaders to remedy them immediately.

DR. SERVATIUS: What was the relationship of the political leaders to the State organizations, administrations, and other institutions?

KAUFMANN: The functions were completely varied and separate, except in those cases in which one person held two or more positions.

DR. SERVATIUS: And what relationship did the political leaders have to the SA and General SS?

KAUFMANN: The SA and the General SS were independent organizations with their own chain of command. The political leaders could ask them to support their work.

DR. SERVATIUS: Did the political leaders have any executive powers?

KAUFMANN: None at all. If they had no state function, as I said, they were exclusively limited to their Party sphere.

DR. SERVATIUS: Could the political leaders give instructions to the Gestapo or the SD?

KAUFMANN: That is shown from the answer to the previous question. However, the fact that in the State Police and the SD the vigilance over their own organizations was even more severe than in other formations was a matter of course.

DR. SERVATIUS: Witness, what was your relationship to the Führer?

KAUFMANN: In the first years I venerated the Führer. Later on I still venerated him but did not understand him on many points, and the measures which are now ascribed to the Führer I would formerly not have considered possible.

DR. SERVATIUS: Can the political leaders, who believed Hitler an idealist and who had no knowledge of the extermination of the Jews and other events, essentially be considered of good faith?

KAUFMANN: In the correct judgment of their functions and their attitude and what they had to know or could know, this good faith must, in my opinion, be granted to the political leaders without reservation.

DR. SERVATIUS: I have no more questions to put to this witness.

THE PRESIDENT: The Tribunal will adjourn.

[The Tribunal recessed until 1400 hours.]

Afternoon Session

SIR DAVID MAXWELL-FYFE: Witness, do you remember Hitler saying in his Reichstag speech on 20 February 1938: "National Socialism possesses Germany entirely and completely. There is no institution in this State which is not National Socialist."

Do you remember these words, or if you do not remember the exact words do you remember the sense of these words being stated by Hitler?

KAUFMANN: I remember the sense of the words, but not the words themselves.

SIR DAVID MAXWELL-FYFE: My Lord, the extract from the speech is in Document Book 5, in Document 2715-PS.

[Turning to the witness.] Do you agree with the sense of these words?

KAUFMANN: No.

SIR DAVID MAXWELL-FYFE: Do you think it was an exaggeration?

KAUFMANN: I am convinced that not all institutions were at that time National Socialist.

SIR DAVID MAXWELL-FYFE: But you would agree that the vast majority of institutions were National Socialist?

KAUFMANN: They were in the process of becoming National Socialist, but that process had not been completed.

SIR DAVID MAXWELL-FYFE: So you would agree that what Hitler states as a fact was the aim for which he was working?

KAUFMANN: Yes.

SIR DAVID MAXWELL-FYFE: And the method by which he was working for that aim was through the system of political leadership conducted by the Leadership Corps?

KAUFMANN: By that means the aim could be reached only in part.

SIR DAVID MAXWELL-FYFE: It was one essential method of possessing Germany in the sense of getting complete control of the minds and hearts and feelings of the population of Germany, was it not?

KAUFMANN: No, in my opinion only at the beginning.

SIR DAVID MAXWELL-FYFE: Only at the beginning? But that was the work which had gone on from 1933 up to 1938, when these words were spoken by Hitler?

KAUFMANN: It was part of the success of the Party before the seizure of power and after the seizure of power.

SIR DAVID MAXWELL-FYFE: Let me just put a few more words of Hitler's to show you how he expresses it:

"But above all, the National Socialist Party"—it is the same speech—"has not only made the nation National Socialist but has also made of itself that perfect organization . . ."

Is Hitler correct in giving that description of the leadership?

KAUFMANN: Yes; I would say "yes."

SIR DAVID MAXWELL-FYFE: Well, now I just want to take the matters which Dr. Servatius has referred to and ask you about the share of the Leadership Corps in them. Let us take the question of the Jews first.

Speaking generally and not with sole reference to your own Gau of Hamburg, did the Political Leaders take an active part in the demonstration of November 1938?

KAUFMANN: The information I received about that action from other Gaue gave me the impression that such actions had indeed taken place, but that, with exceptions, the men responsible for these actions had in no case been Political Leaders.

SIR DAVID MAXWELL-FYFE: Now, if you say that, will you look at Heydrich's order of 10 November.

My Lord, Your Lordship will find that on Page 79 of the Document Book 14.

THE PRESIDENT: What page?

SIR DAVID MAXWELL-FYFE: 79, My Lord.

Witness, you will find it on Page 96 of the German document book. If it is not 96, it is 97. Have you found it?

You see, this was an order from Heydrich issued at 1:20 in the morning of the 10th, and I just want you to look at Paragraph 1:

"The chiefs of the local State Police offices or their deputies must get in contact by telephone with the Political Leaders (Gauleitung or Kreisleitung) who have jurisdiction over their districts and have to arrange a joint meeting with the appropriate inspector or commander of the Order Police to discuss the organization of the demonstrations. At these discussions the Political Leadership has to be informed that the German Police has received from the Reichsführer SS and Chief of the German Police the following instructions in accordance with which the Political Leaders should adjust their own measures."

Now, you remember the general instructions were as to the burning of synagogues, the arrest of 20,000 Jews to be taken to concentration camps, and the destructions or appropriation of Jewish property. What were "their own measures" which the Political Leadership were to take with regard to that?

KAUFMANN: First, may I point out that in the German text of that document the passage which says that the Gauleiter had jurisdiction is not included. I do not find it.

SIR DAVID MAXWELL-FYFE: The point I am asking you about—we will deal with that in a moment, but what I want to know from you is, what were "their own measures" which the Political Leaders were to take with regard to this attack on the Jews?

KAUFMANN: I can only say the following: I myself did not take part in the meeting of 9 November 1938. I was not informed from Munich about the proposed action, but in the evening of 9 November I heard from the chief of the Hamburg State Police that an action of that kind was imminent.

SIR DAVID MAXWELL-FYFE: That is, the leader of the Hamburg State Police was carrying out the instructions of this paragraph after getting in touch with you. I thought you were able to speak for Gauleiter generally, apart from Gau Hamburg, and I want you to tell the Tribunal what were their own measures which the leadership of the Party were to carry out? I mean, you must have heard it discussed afterwards. Tell us what they were. What were the leaders of the Party to do?

KAUFMANN: You asked me in your previous question about my personal experiences. I had to answer that I myself was informed by the chief of the State Police that it was proposed to carry out this action. For the Gau Hamburg—that is what I was asked about just now—I gave the order that officials of the State and Criminal Police were immediately to safeguard the business streets and residential districts of Jews in Hamburg. This measure was in the hands of Commissioner Winke of the Criminal Police, to whom I sent a Gau inspector to assist him. After receiving the information through the State Police I immediately called up all the Kreisleiter and made them responsible for the prevention of this action in their districts.

SIR DAVID MAXWELL-FYFE: Did you, in your Gau, burn the synagogues?

KAUFMANN: No, I . . .

SIR DAVID MAXWELL-FYFE: I want to be exact. Were the synagogues burned in Hamburg? That is what I should have asked you.

KAUFMANN: As a result of my measures, no excesses took place during the first night, that is the night from the 9th to the 10th. There were minor, insignificant disturbances in the night from the 10th to the 11th, and in spite of my measures, one synagogue was set on fire, I assume by elements from outside.

SIR DAVID MAXWELL-FYFE: All over Germany generally, if my memory is right, there were at least 75 synagogues burned. In general, apart from your own Gau, is it not right that following this order of Heydrich the Leadership Corps co-operated with the Police to see that synagogues were burned, Jews were arrested, and Jewish property affected, and that non-Jewish property was left secure?

KAUFMANN: I know of no order and no directive which commanded the Corps of Political Leaders, even outside the Gau Hamburg, to take part in that action. I was only informed that after the meeting of the 9th of November, Reichsminister Dr. Goebbels made a request which then in practice led to excesses in individual Gaue, or in many Gaue. I also know that the Delegate for the Four Year Plan at that time said, a few days after that action, at a meeting in Berlin, that this measure, which he condemned in the strongest terms, was not in conformity with the intentions of the Führer and his own intentions, and he mentioned the Gau Hamburg as an exception.

SIR DAVID MAXWELL-FYFE: You remember that you said a few moments ago to me that this was an occurrence which only took place in individual instances. Here is the order of Heydrich, telling the Police generally to get in touch with the Leadership Corps so that they could co-operate with the Police to carry out his orders, which were, broadly: Attack the Jews and see that you do not do any harm to non-Jews while you are doing it. It is quite wrong what you said a few moments ago, that this was an individual matter. The Leadership Corps were brought into this through the order of Heydrich, who was then Himmler's lieutenant—chief of the Secret Police, is that not so?

KAUFMANN: No, that is not correct, the Corps of Political Leaders was not required to accept orders from Heydrich. Orders to the Political Leaders could be issued solely by the Gauleiter, who received his directives from the Führer or from the Deputy of the Führer, or from the Party Chancellery.

SIR DAVID MAXWELL-FYFE: Well, do you remember what took place after that occurrence? Do you remember a meeting of the Party Court?

KAUFMANN: No.

SIR DAVID MAXWELL-FYFE: Let me remind you about the Party Court. You will find that in Document 3063-PS at Pages 81 to 88 of the same document book. Witness, it is Page 105.

KAUFMANN: Yes, I have found the page.

SIR DAVID MAXWELL-FYFE: You have found the page—Page 81. A meeting of the Supreme Party Court of the Party, and it begins with a report about the events and judicial proceedings in connection with the anti-Semitic demonstrations of 9 November 1938. If you look just after it says "Enclosure 2" it reads:

"... it was understood by all the Party Leaders present from the oral instructions of the Reich Propaganda Minister that the Party should not appear outwardly as the instigator of the demonstrations but in reality should organize and execute them.

"Instructions in this sense were telephoned immediately—thus a considerable time before transmission of the first teletype—to the bureaus of their districts (Gaue) by a large part of the Party members present."

And if you will look on to the next paragraph but one:

"At the end of November 1938 the Supreme Party Court, through reports from several Gau Courts, heard that these demonstrations of 9 November 1938 had gone as far as plundering and killing of Jews to a considerable extent and that they had already been the object of investigation by the Police and the public prosecutor."

And then after that it says:

"The deputy of the Führer agreed with the interpretation of the Chief Party Court, that known transgression in any case should be investigated under the jurisdiction of the Party:

"1) Because of the obvious connection between the events to be judged and the instructions which Reich Propaganda Minister Party member Dr. Goebbels gave in the town hall at the evening party of comrades. Without investigation and evaluation of these connections a just judgment did not appear possible. This investigation, however, could not be left to innumerable State courts."

And then Paragraph 2 says that matters which concerned the vital interests of the Party should also receive Party clarification first and that the Führer should be asked to cancel the proceedings in the State courts. Now if you look on—I do not want to take too much time—you will see that there were then 16 cases which came up before the Supreme Party Court, and the first three cases are matters—oh, yes, there is just one point I should have drawn attention to. Just before you come to the first case:

"Gau leaders and group leaders of the branches served as jurors at the trials and decisions. The decisions, which, for reasons to be discussed later, contain only in part the statements of the facts, are attached."

The first three cases, which come from Rheinhausen, Niederwerrn, and Linz, are concerned with theft and rape. They are allowed to go on to the State courts. The next 13—which come from all over Germany, very different places like Heilsberg, Dessau, Lesum, Bremen, Neidenburg, Eberstadt, Lünen, Aschaffenburg, Dresden, Munich, and all over Germany—are 13 cases of murdering Jews. Two of the perpetrators get the very mild sentence of a warning and not being able to hold public office because of disciplinary violation, and as for the remaining 11, the proceedings are suspended against them.

Now, I just want you to look at 102. If you will look at 6, that is the shooting of a Jewish couple called Goldberg; Number 7, the shooting of the Jew Rosenbaum and the Jewess Zwienicki; Number 10, shooting the Jewess Susanne Stern; and there is Number 5. Number 5 is the shooting of the 16-year-old Jew, Herbert Stein.

Now, you say that you did not deal with any of these situations yourself, is that so?

KAUFMANN: I explained clearly that I gave orders to the contrary in my Gau.

SIR DAVID MAXWELL-FYFE: Yes. I asked you, as I said at the beginning—I want you to tell the Tribunal about it generally—how it is that the Court of your Party, which is supposed to deal with the discipline and decency of its members, passed over 13 cases of murder with two suspensions from public office for 3 years, and the remaining 11 cases with all action suspended. Do not you think that that was a disgraceful way to deal with murder?

KAUFMANN: May I say first that among the 13 cases which are quoted here, there is only one Political Leader.

SIR DAVID MAXWELL-FYFE: Well, you are not right, you know. Cases 9 and 10 involve Ortsgruppenleiter; case 11 involves a Blockleiter. It is true that cases 2 to 8, 12, and 15 involve people with various ranks in the SA, and cases 11, 14, and 16 involve cases with people in the ranks of the SS. But actually I think you will find that cases 9, 10, and 11 involve the Political Leadership. But that is not my point, Witness; my point is this: Here are these members of the Party brought up before the Court of the Party, and the Court of the Party is condoning and conniving at murder. That is my point, and I want you to give your explanation as to why you connive and condone at murder.

KAUFMANN: I saw this document which has just been submitted to me for the first time only after I was brought here to the Palace of Justice as a witness. In view of my attitude toward the Jewish question and the Jewish measures, I did not under any circumstances approve such handling of cases as is mentioned here. I would never have approved of it if I had known about it.

SIR DAVID MAXWELL-FYFE: But, Witness, if that is your personal view, then let us leave your personal view for the moment. The Tribunal are considering the Leadership Corps of the Party. Here is the highest Court of the Party. If the highest Court of the Party gives decisions of that kind of which you intensely disapprove, does not it show that the highest Court of the Party was rotten to its foundations?

KAUFMANN: The Supreme Party Court should have adopted a strong attitude toward the Führer. It apparently neglected to call to account the creator of the whole action, the instigator of all these excesses.

SIR DAVID MAXWELL-FYFE: I am not going to take it in complete detail; but I just want you to look at one paragraph of the explanation which the Party Court gives. The full explanation is there, on Page 87.

[Turning to the Tribunal.] My Lord, that is the second paragraph.

[Turning to the witness.] Will you turn to that? I am not sure where that will be. It will be a few pages on—112, I think, Witness. I just want you to try and help us on this point. Have you got a paragraph that begins, "Also in such cases as when Jews were killed without an order (Enclosures 13, 14, and 15) or contrary to orders (Enclosures 8 and 9)..."? Now, mark the numbers...

KAUFMANN: No, I have not found that paragraph.

SIR DAVID MAXWELL-FYFE: Would you try at Page 113? The sergeant will help you.

KAUFMANN: Yes.

SIR DAVID MAXWELL-FYFE: Do you see:

"Also in such cases"—it begins—"as when Jews were killed without an order (Enclosures 13, 14, 15) or contrary to orders (Enclosures 8 and 9) ignoble motives could not be determined. At heart the men were convinced that they had done a service to their Führer and to the Party. Therefore, exclusion from the Party did not take place. The final aim of the proceedings executed and also the yardstick for critical examination must be, according to the policy of the Supreme Party Court, on the one hand, to protect those Party comrades who, motivated by their decent National Socialist attitude and initiative,

had overshot their mark and, on the other hand, to draw a dividing line between the Party and those who for personal reasons misused the Party's national liberation battle against Jewry . . ."

Do you say that it is decent National Socialist attitude and initiative to murder Jewesses and children of 16?

KAUFMANN: My opinion in this matter is quite clear. I objected to the action, and I do not at all approve the viewpoint of the Party Court. I am convinced that the majority of the Party members are of the same opinion.

SIR DAVID MAXWELL-FYFE: But it must mean, must it not, Witness—your own denunciation must mean that on the Party Court there were a number of men who were completely devoid of any moral sense whatever; is that so?

KAUFMANN: I cannot accept this rather far-reaching characterization. I personally never had anything to do with the Supreme Party Court, and I never had insight into its measures and judgments, particularly in these and similar cases.

SIR DAVID MAXWELL-FYFE: I do not want to take time in trying to persuade you to condemn your old colleagues too highly, and therefore I will leave it at that, if you agree so far that you disapproved strongly of the action that was taken by that Party Court. I think you said that. If I understand you correctly, I shall not go into it further. Is that right?

KAUFMANN: I disapprove and reject the opinion of the Party Court as expressed in this document.

SIR DAVID MAXWELL-FYFE: Now, I just want to show you that that was not an isolated example, and—My Lord, if Your Lordship would be good enough to turn to Page 45 of the same book—no, My Lord, it is Page 46, I am sorry; and My Lord, the document begins on Page 45, but actually what I would like Your Lordship to look at is on Page 47. It is either on Page 50 or 51, Witness, in the German copies.

Now, that is a document dated the 7th of June 1933, issued by the Gau propaganda leader of the Gau Koblenz-Trier. You will see that it is issued to all Kreis directorates, and the subject is "Jew baiting." The first paragraph says that they will receive a list of Jewish firms and businesses, and the second paragraph says:

"Jew baiting.

"The district directorate (Kreisleitung) will set up a committee which has the task of directing and supervising the communities in the whole district. The strength of this committee will be determined by the Kreisleiter. You are to inform the

Gau propaganda directorate at once of the committees named. The Gau propaganda directorate will then contact these committees through you."

Then it goes on to suggest a considerable number of measures against Jews, including refraining from trading with them, and action against anyone who does trade.

Now, that just happens to be a document which we captured from the Gau Koblenz-Trier. I want you to tell us just how that fits into the Party machinery. That goes from Gau propaganda to Kreis; then, I suppose, when the Party Leaders in the various Kreise would set up their committees, they would employ the Ortsgruppenleiter, or the Zellenleiter and the Blockleiter to form these committees. Is that how it would work?

KAUFMANN: The document which I have before me is a copy of a radio message. I did not know that it was common usage in the Gaue in 1933 to send such directives by radio, but assuming that this directive was actually issued, then it was a measure in the Gau Koblenz-Trier, which, to my knowledge, was not based on any order.

SIR DAVID MAXWELL-FYFE: But you are not suggesting that out of the 42 Gaue, Koblenz-Trier is the only Gau in which there was Jew baiting in 1933, are you?

KAUFMANN: No.

SIR DAVID MAXWELL-FYFE: But what I asked you was, assuming the instructions from the Gau were carried out by the Kreis, would these committees be formed out of the Zellenleiter and Blockleiter of the various parts of the Kreis?

KAUFMANN: I must assume so from the document, if I can take it to be correct.

SIR DAVID MAXWELL-FYFE: Yes, assuming that it is a verified captured document, am I right in assuming that the Kreisleiter of Koblenz-Trier carried out these instructions? Did they form the Jew baiting committees out of the Zellenleiter and Blockleiter?

KAUFMANN: Under no circumstances was that method, that measure, common usage throughout the Reich. Under no circumstances did the Reich authorities issue a directive to this effect, otherwise I would have known about it.

SIR DAVID MAXWELL-FYFE: If that is your answer I would not occupy the time. I just wanted to show what happened in 1933 and 1938. We will now take something that happened during the war—My Lord, if you will be good enough to turn to Page 27 and 28—Page 29 and 30, Witness.

KAUFMANN: Yes.

SIR DAVID MAXWELL-FYFE: You see that it is a document issued on the 5th of November 1942 regarding jurisdiction over Poles and Eastern nationals, and you can see that the jurisdiction is to be placed over—if I may just read the first paragraph to you to explain it:

"The Reichsführer SS has come to an arrangement with the Reich Minister of Justice, Thierack, whereby the courts will not ask for the usual legal procedure in the cases of Poles and Eastern nationals. These persons of alien race are in future to be handed over to the Police. Jews and gypsies are to be treated in the same way. This agreement has been approved by the Führer."

And then it goes on to explain that the reason for the handing over of the Poles and for not giving them a trial is, you see that in Paragraph 2, because: "... Poles and Eastern nationals are alien and racially inferior people living in the German Reich territory."

I would like you to look at the end of it where it develops the fact that considerations for trying Germans do not apply to considerations for trying Eastern nationals. Then Paragraph 3 says:

"Above expositions are for personal information. In case of need, however, there need be no hesitation in informing the Gauleiter in suitable form."

My Lord, it is the last sentence of the document, that: "... there need be no hesitation in informing the Gauleiter in suitable form."

Now, tell the Tribunal, Witness, how did the Gauleiter come to deny Eastern nationals a trial and handing them over to the Police? What had he to do with it?

KAUFMANN: Firstly, this document refers, in the beginning, to a directive of the Reichsführer SS to his subordinate offices, that is, not to the Gauleiter. Secondly, it remained at the discretion of the persons who received this document, whether they would instruct the Gauleiter in cases of need.

SIR DAVID MAXWELL-FYFE: That is what I want you to help us on. How did it become necessary for these Police officers and the officers of the R.S.H.A. to consult the Gauleiter about refusing a trial. What I want you to tell the Tribunal is how the Gauleiter came into it, unless they were helping the Police to perpetrate this injustice like many others. How did they come into it?

KAUFMANN: The Gauleiter did not have anything at all to do with these things. With the permission of the Tribunal, I would like to mention my own experience in this matter...

SIR DAVID MAXWELL-FYFE: I would rather not. I am not interested in your experiences. What I am interested in is why the

Police should be instructed to inform the Gauleiter if necessary? Tell us the sort of circumstances in which the Police would go to the Gauleiter—that is what I want to hear.

KAUFMANN: I do not know that; the Gauleiter did not participate in these things.

SIR DAVID MAXWELL-FYFE: So it is your answer that you cannot tell the Tribunal. You cannot imagine any circumstances which would cause Herr Streckenbach to send these instructions to the Higher SS and Police Leader and one-half dozen Police districts? You cannot think of anything that would cause that paragraph to come in?

KAUFMANN: I have already said that the writer of this document leaves it to the discretion of the recipients whether they will instruct the Gauleiter or not. I cannot judge in which cases the Gauleiter were instructed and in which cases they were not . . .

SIR DAVID MAXWELL-FYFE: All right, let us look at something else.

My Lord, if Your Lordship will turn to Page 24.

Witness, it is 26—Page 26 in your book. Now, that is a report from Herr Abetz, who was the Reich Ambassador in Paris and it has a very large distribution to the Foreign Office and other places, and it is dealing with Jews who had left Austria and had not changed their Austrian passports for German passports, and also Reich German Jews who had not reported when they were abroad. I want you to look at the end of the first paragraph where Abetz says:

> "Suggest for the future a collective expatriation procedure for the occupied territory of France based on lists made here in agreement with Hoheitsträger in which should be listed primarily the members of the following groups . . ."

And then he has listed the ex-Austrians and Jews who have not reported.

KAUFMANN: May I ask where I can find the word Hoheitsträger?

SIR DAVID MAXWELL-FYFE: You see the Number 1—well, about three lines before that:

> "Suggest for the future a collective expatriation procedure for the occupied territory of France based on lists made here in agreement with Hoheitsträger"—high Party leaders—"in which should be listed primarily the members of the following groups . . ."

Now, is Herr Abetz suggesting that the Hoheitsträger should make the lists of the Jews who have not complied with the

regulations, and therefore are to be expatriated from comparative safety in France and brought into the Reich where, in 1942, they would probably take a journey into the East and then be gassed? Now, is that a normal type of duty which the Hoheitsträger did—to make lists of offending Jews for the Reich authorities?

KAUFMANN: Firstly, this is concerned, apparently, with the Hoheitsträger of the Auslands-Organisation. As a Gauleiter . . .

SIR DAVID MAXWELL-FYFE: Yes, that is evident from the word here.

KAUFMANN: I, as Gauleiter, have never been expected to perform such work or such services and if I had been asked to perform them, I would have refused to do so.

SIR DAVID MAXWELL-FYFE: Just one other point on the Jews. Would you look at "Die Lage"?

[The document was submitted to the witness.]

My Lord, this will be Exhibit GB-534. My Lord, there are copies of the relevant extracts. "Die Lage" is the situation report giving the military political situation of the day.

[Turning to the witness.] You will see, if you will just look back at the beginning, Witness, for a moment—if you will look back to the front. Would you be good enough to look back to the front? You will see that it is for August 1944, and it begins with an article by the Defendant Dönitz on sea warfare. Now, you notice that at the front it is referring to Höngen which, I understand, is somewhere near Aachen—NSDAP Höngen. Now, did you get that? Did you get "Die Lage"?

KAUFMANN: Yes.

SIR DAVID MAXWELL-FYFE: Well now, just look at Page 23, dealing with the Jewish problem in Hungary:

> "It was a matter of course that the German offices in Hungary did everything possible after 19 March to eliminate the Jewish element as rapidly and as completely as was at all possible. In view of the proximity of the Russian front, they commenced with the cleaning up of the northeastern area—north Transylvania and the Carpathian province—where the Jewish element was the strongest numerically. Then the Jews were collected in the remaining Hungarian provinces and transported to Germany or German controlled territories. A hundred thousand Jews remained in the hands of the Hungarians to be employed in labor battalions."

And then it tells of the question of getting the command of the Hungarians and of the slight difficulty of the definition of "Jew" in Hungarian law.

It goes on to say, toward the end of the first paragraph:

"Up to 9 July approximately 430,000 Jews from the Hungarian provinces had been handed over to the German authorities. The handing over takes place on the Hungarian national frontier up to which point the carrying out of the measures against the Jews, and with it also the responsibility for it, is a matter for the Hungarians."

Then I would like you to note the next paragraph, about Budapest. It says:

"As a last stage the Jews from Budapest were to be deported. It is a question of approximately 260,000. But in the meantime pressure from enemy and neutral countries (Hull"—I suppose that is Mr. Cordell Hull—"the King of Sweden, Switzerland, the Pope) has become so strong that those circles in Hungary that are friendly to the Jews attempted to influence the Hungarian Government to prevent any further measures against the Jews . . ."

Now, Witness, whoever else in Germany was ignorant about the action taken against Jews in Hungary, everyone who got "Die Lage" knew what the Germans were doing with regard to the Hungarian Jews, did they not?

KAUFMANN: I have to disappoint you, Mr. Prosecutor, because I myself see this magazine today for the first time. I do not deny that it was sent to me but I never read it, maybe through lack of time. I do not know to what extent other circles of the Party received it. I myself am hearing of the measures against the Jews in this form and of these numbers for the first time.

SIR DAVID MAXWELL-FYFE: Well, just let us get the distribution of "Die Lage". It may have been bad luck that you did not read it—or good luck; but still, it went to all Gauleiter, it went to all Army and Navy and Air Force commands. Did it go to the Kreis and the Ortsgruppenleiter?

KAUFMANN: May I ask you to tell me where it says so?

SIR DAVID MAXWELL-FYFE: I am asking you whether that is not right. You know it as well as I do, do you not, that it went to all Gauleiter and to Army Command?

KAUFMANN: I said to you, Mr. Prosecutor, just now that it is for the first time—that it is possible that this booklet was sent to me, but that I see it here in this courtroom today for the first time. I have never read it and have never seen it.

SIR DAVID MAXWELL-FYFE: You never read it at all, do you say?

KAUFMANN: I do not know this magazine "Die Lage"; I see it for the first time here today.

SIR DAVID MAXWELL-FYFE: So that you cannot say whether there was any distribution to Kreisleiter or Ortsgruppenleiter?

KAUFMANN: I think this distribution is improbable, because my attitude to the Jewish question was well known and my Kreisleiter would, I am sure, have drawn my attention to this article.

SIR DAVID MAXWELL-FYFE: But, as I understood you a few moments ago, you said that it was quite possible that you might have got "Die Lage" but you had not read it?

KAUFMANN: Yes, I am saying this under my oath.

SIR DAVID MAXWELL-FYFE: Why did you think it was quite possible that you might have got it, if there was not a distribution to Gauleiter?

KAUFMANN: I did not claim that there was no distribution. I merely asked where it said that the Gauleiter received this magazine.

SIR DAVID MAXWELL-FYFE: Well, you see, I have referred you to the front page, to what was put on the copy which we happened to capture. It has got "NSDAP Höngen." It does not look as if it was a very restricted distribution if it got to the NSDAP at Höngen. I am right, am I not, that Höngen is a village near Aachen? Is that not right?

KAUFMANN: I do not know whether it is a village near Aachen. I can only see a note in handwriting here, I do not know who wrote it. I see this for the first time today.

SIR DAVID MAXWELL-FYFE: All right. Well, we must not take up too much time. I will take you on to another point which Dr. Servatius referred to. I want to ask you just one or two questions about the lynching of Allied airmen.

My Lord, if Your Lordship will look at Page 41 of the book.

Witness, it is Page 43 for you. That is an order signed by the Defendant Hess, of the 13th of March 1940.

My Lord, it is Document 062-PS, Exhibit USA-696, and the subject is: "Instructions to civilian population regarding appropriate behavior in case of landings of enemy planes or parachutists in German territory."

It says:

"The French civilian population was directed officially and by radio how to behave in case of landings of German planes. Because of this fact the Commander-in-Chief of the Air Force has requested me to instruct the civilian population

correspondingly by means of Party channels. The attached directions as to procedure are to be disseminated only orally via Kreisleiter, Ortsgruppenleiter, Zellenleiter, Blockleiter, leaders of the incorporated and affiliated organizations of the Party. Transmittal by official orders, posters, press, or radio is prohibited."

Then it says: "Official stamp: Top Secret."

And the various matters, instructions as to the treatment of top-secret documents.

Now if you will look on to the next page where the document occurs, it says: "One—planes to be put under protection; two—the airmen are to be arrested at once and restarting or destruction prevented; three—no looting or taking of souvenirs." Now look at Paragraph 4: "Likewise, enemy parachutists are immediately to be arrested or made harmless."

My Lord, I think that is a better translation of "unschädlich gemacht."

[Turning to the witness.] Now, what was "making harmless"—murdering?

KAUFMANN: The expression "unschädlich machen" in this connection is, I think, a bad choice, a dangerous choice, considering the situation at that time and the fact that this letter emanated from the Deputy of the Führer whose humane and decent attitude was well known.

SIR DAVID MAXWELL-FYFE: Well, you see it is used. You have already got "arrested." The "made harmless" must be something different from "arrested." Do you not think, on consideration, that the ordinary Blockleiter to whom this message was orally given would take it that he was to murder the parachutist if he could not arrest him? What is the purpose of all this secrecy if "unschädlich gemacht" had not that meaning? Why have you got about 15 different provisions as to the secrecy of this order if it did not mean murder? There is nothing else secret in the order, is there? Nothing else that you could not put in the hands of a Sunday school?

KAUFMANN: The order contains other points, too, apart from Point 4. In the situation of that time, the expression "unschädlich machen" meant that if there was any resistance, the person resisting should be made harmless; but I admit that without an explanation to those who received the order, the choice of words was rather dangerous.

SIR DAVID MAXWELL-FYFE: Well, now, that is the Defendant Hess. Now just look at Himmler's order of the 10th of August 1943.

My Lord, Your Lordship will find it on Page 89 . . . *[turning to the witness]* and it is 116 or 117 of your document book.

SIR DAVID MAXWELL-FYFE: That is sent on the 10th of August 1943. It is sent at Himmler's request by one Brandt, an Obersturmbannführer, and you will see that again—look at the orders for distribution:

"At the request of the Reichsführer SS I am sending you the enclosed order, with the request that the Chief of the Order Police and of the Security Police be informed; they are to make this instruction known to their subordinate offices verbally. In addition, the Reichsführer SS requests that the Gauleiter concerned be informed verbally of this order. It is not the task of the Police to interfere in clashes between Germans and English and American terror-fliers who have bailed out."

Why, again—why were Gauleiter to be informed verbally if it was not that they were to connive at the murder of the airmen?

KAUFMANN: The intention of this order in its details is not clear to me. I, too, received the order through the Higher SS and Police Leader and I issued directions both to the Party, that is to say, to the Kreisleiter, with the request to have them transmitted to their subordinates, and to the Police president, that, under all circumstances, the fliers should not be maltreated, but only seized and handed over.

SIR DAVID MAXWELL-FYFE: But that was not what the order said, you know, if you passed it on. The order said that the Police were not to interfere in clashes between Germans and the fliers.

In other words, they were to stand aside and let the fliers be lynched. If you passed that on, that meant that the Leadership Corps were going to assist and encourage no interference with lynching of Allied airmen. That is what it comes to is it not? Well, now, I just want to remind you, that was not the end.

My Lord, if Your Lordship turns to Pages 39 and 40—that is 41, Witness, in your document book. That is on the 30th of May 1944.

THE PRESIDENT: Did not the witness say then that according to his understanding these "terror-fliers" were to be seized and turned over?

SIR DAVID MAXWELL-FYFE: Yes, My Lord. That is quite different from the order.

THE PRESIDENT: Yes, but to whom were they to be turned over?

SIR DAVID MAXWELL-FYFE: Witness, to whom did you understand were the "terror-fliers" to be handed over according to your orders?

KAUFMANN: The Political Leaders, if they participated in the arrest, were to turn the captured fliers over to the Police, and the Police was to turn them over to the Air Force authorities concerned.

SIR DAVID MAXWELL-FYFE: Your orders were that the Political Leaders who participated were to hand them over to the Police. Was that the Ordnungspolizei or the Sicherheitspolizei?

KAUFMANN: To the Ordnungspolizei.

SIR DAVID MAXWELL-FYFE: Well, now the next order is one of Bormann's on the 30th of May 1944, and you will find it on Page 41.

It is Page 39 of Your Lordship's.

You will see the first paragraph says:

"In the last few weeks low-flying English and American fliers have repeatedly, from a low altitude, machine-gunned children playing in squares, women and children at work in the fields, peasants plowing, vehicles on the highways, trains, *et cetera,* and have thus murdered defenseless civilians—particularly women and children—in the vilest manner. Several instances have occurred where members of the crews of such aircraft who have bailed out or have made forced landings were lynched on the spot immediately after capture by the populace which was incensed to the highest degree. No Police measures or criminal proceedings were invoked against the German civilians who participated in these incidents."

And you will see that that goes to Reichsleiter, Gauleiter, and Kreisleiter, and you will see that on the next page:

"The leader of the Party Chancellery"—that is Bormann—"requests that the Ortsgruppenleiter be instructed concerning the content of this circular letter orally only."

KAUFMANN: That order of Bormann is well known to me. I had it stopped by the Chief of the Gau Staff Office, and beyond that, for safety reasons and in view of this letter, I repeated the order which, as I have already mentioned here, I issued to the Party and to the Police or rather to the Police President; although in Hamburg, too, casualties had been caused in the ways listed in this document.

SIR DAVID MAXWELL-FYFE: But you do not dispute, do you, Witness, that the purpose of that order was to encourage everyone down to Ortsgruppenleiter not to interfere with the lynching of airmen?

KAUFMANN: No, that is quite evident from the wording . . .

SIR DAVID MAXWELL-FYFE: I am not going to argue with a written document. I prefer to show you how it was interpreted in another Gau. Would you turn to Page 27?

If Your Lordship will be good enough to turn to Page 25 you will find the Document L-154, Exhibit USA-335.

That is the Gauleiter Service, 25 February 1945, for southern Westphalia—the Gauleiter and National Defense Commissioner of the Gau Westphalia South signed by one Hoffmann—and there is a distribution to county counsellors, Kreisleiter, and staff chiefs of the Volkssturm. It says:

> "Any fighter-bomber pilots shot down are on principle not to be protected against the indignation of the people. I expect from all Police offices that they will refuse to lend their protection to these gangster types. Authorities acting in contradiction to the popular sentiment will be taken to account by me. All Police and gendarmerie officials are to be informed immediately of this, my attitude. Signed, Albert Hoffmann."

It is quite clear that in some Gaue it was interpreted as a direct order to hold off and not interfere in any way if these fliers were being lynched.

However, you say that in the Gau Hamburg you gave orders that they were to be handed over to the Police.

KAUFMANN: The document shows that the order was interpreted in that way in several Gaue—and I have to admit that in view of the experiences of the last months. But I am convinced that in some Gaue the order was handled in the same manner as in mine.

SIR DAVID MAXWELL-FYFE: Witness, there is one point there I would like you to explain to the Tribunal, though it is not strictly on the Leadership Corps. Why would an SA Obersturmbannführer initial that document on 25 February 1945; why would he be initialing it?

KAUFMANN: I did not understand the question.

SIR DAVID MAXWELL-FYFE: If you look at your Page 27, you will see that it is initialed by Buckemüller, SA Obersturmbannführer and country staff chief of the Volkssturm; why would he be initialing it?

KAUFMANN: That I do not know.

SIR DAVID MAXWELL-FYFE: I would not trouble you.

Now, I want to take the next subject and again, I hope, deal very shortly with what Dr. Servatius mentioned—the churches. Do you agree that it was the general policy of the Nazi Party to do everything in its power to weaken the influence of the Christian churches?

KAUFMANN: No.

SIR DAVID MAXWELL-FYFE: Well, now, would you look at Page 1 of that last book. It is Page 7 of your book and Page 1 of the English book. That is dated the 12th of December 1941 and it deals with a secret decree of the Reichsleiter Bormann regarding the relationship of National Socialism to Christendom. If you would look at the first paragraph, that deals with the finding of this decree, a copy of a letter on the "relationship," in the papers of a Protestant priest called Eichholz at Aix-la-Chapelle, which is supposed to originate from Reichsleiter Bormann; and then the second paragraph says:

> "As far as this document is concerned it does in fact, as I have ascertained, represent a secret decree of the Party Chancellery signed by Reichsleiter Bormann, in which Reichsleiter Bormann clearly points out that National Socialism and Christendom are incompatible and that the influence of the churches in Germany, including the Protestant Church, must be eliminated. The decree was addressed to Gauleiter Dr. Meyer at Münster on 6 June 1941."

And then it gives the reference: "I have ascertained that on 7 June 1941 the decree was also sent to the remaining Gauleiter . . ."

And it says that since this first paragraph of the circular decree addressed to all Gauleiter is missing from the document in possession of Priest Eichholz, it appears it was known to the Church.

Now, do you remember getting the decree of Bormann about the 7th of June 1941? If you cannot remember the decree, you will find it in the next two pages and I just remind you of one or two of the worst pieces in it. At the end of the second paragraph it says:

> "Our National Socialist ideology is far loftier than the concepts of Christianity, which in their essential points have been taken over from Jewry. For this reason also we do not need Christianity."

And it says that if the youth does not learn about it, Christianity will disappear; and then there are some very odd utterances and it talks about a vital force; and if you will look toward the end of Bormann's document, it says in the third from last paragraph:

> "For the first time in German history the Führer consciously and completely has the leadership of the people in his own hand. With the Party, its components, and attached units the Führer has created for himself and thus the German Reich leadership an instrument which makes him independent of the Church."

And it goes on to develop that and if you will look at the penultimate paragraph, in the second sentence, it says:

"Just as the deleterious influences of astrologers, seers, and other fakers are eliminated and suppressed by the State, so must the possibility of Church influence also be totally removed."

Now that it is recalled to your memory, I should not think that you should have forgotten a decree couched in such, shall we say, extraordinary language as that; do you remember it?

KAUFMANN: Yes.

SIR DAVID MAXWELL-FYFE: Do you still say that the National Socialist Party leadership was not doing everything in its power to attack Christianity?

KAUFMANN: Yes. This is a statement by Bormann which, to my knowledge, was withdrawn a few days later upon orders of the Führer as a personal opinion of Bormann.

SIR DAVID MAXWELL-FYFE: That cannot be so, because if you notice, the decree was issued on the 7th of June and this decree which, after all, is going to the RSHA, to Müller, is the 12th of December, which is 6 months after the decree was opened and there is nothing in that decree about its being withdrawn. Surely, if it had been withdrawn on the 14th of June there would have been something in this decree to the Security Service and Intelligence Office of the Reich, surely they would have enough intelligence and information to know that a decree had been withdrawn 6 months before.

KAUFMANN: I am speaking here under oath and I say that this decree of May was not only withdrawn, but had actually to be sent back.

SIR DAVID MAXWELL-FYFE: Well, how do you account for the fact that the Security Police never heard about its being withdrawn—and we discuss it in detail—let us take it in that way. I do not know if you had heard or you may have read that the Defendant Fritzsche here said that "even Goebbels was afraid of Bormann," so is it not correct that Bormann was a man who had great influence, especially in the last years?

KAUFMANN: That is correct, but it is not correct that there was nobody who was not afraid of him.

SIR DAVID MAXWELL-FYFE: But there would be many who would be influenced if Bormann was to give an anti-Christian lead to the National Socialist Party, would there not?

KAUFMANN: Only the cadre of the Party, possibly.

SIR DAVID MAXWELL-FYFE: Well, I will only take two examples and we will try to take them well spaced out. I suggest to you that yours is typical. Let me take one in 1935.

My Lord, it is Document Number 1507-PS, and it is a new document.

I cannot remember, Witness, whether you are a Catholic or a Protestant. I have no ulterior motive. I am going to deal with an incident in a Catholic church. Of which are you?

KAUFMANN: I was a Catholic.

SIR DAVID MAXWELL-FYFE: I take it quite surely you will follow it. You will know who the people are and so forth. This is an incident on the 27th of March 1935, when Cardinal Faulhaber was preaching in the cathedral at Freising and the local branch of the Party wanted to take a record of the sermon in case His Eminence was saying anything which might offend the Party; and they did so by breaking one of the windows of the church and inserting a cable which would pick up the sound so that a record could be taken, and there were various happenings and a lot of discussion with which I shall not trouble the Tribunal, but one of the priests of the cathedral brought the incident to the attention of the local Wehrmacht commander and it is with regard to what he says in relation to the functioning of the Leadership Corps that I want to draw your attention. You may take it from me that that is the general incident which is described at great length and which has accusations of exaggeration on both sides and therefore, I am only going to take you to the passage in which the local commandant deals with the situation.

My Lord, it is at the bottom of Page 4. My Lord, it says "Page 5, continued at the top." Has Your Lordship got that?

THE PRESIDENT: Yes.

SIR DAVID MAXWELL-FYFE: My Lord, it is in the bottom paragraph on Page 5. This is after the occurrence when the Wehrmacht officer is making his report; he says:

> "On Monday, the 18th of this month, there came to the house of the staff paymaster Grueber the district leader of the Nazi women's organization, Dr. Kreis, and asked the wife of the staff paymaster, Grueber, to come immediately with her to the cathedral to listen to the sermon of Cardinal Faulhaber, implying that this was Frau Grueber's duty as a member of the Party and the Nazi women's organization. Frau Grueber's objection that she was a Protestant was rejected as unimportant; instead it was ordered that every member of the Nazi women's organization has to attach herself to an SA man in civilian clothes, in which way they would be considered as audience and not as Party members sent out for a purpose. There is no doubt that this measure shows the intention of disturbing the service and of causing uproarious incidents."

And on that, the Wehrmacht officer, very wisely you may think, told her to rely on the fact that Herr Grueber was a paymaster or something of that sort and he need not be mixed up with the Party matters. But what I want to ask you about is this: The Kreisleiterin, leader of the district women, she would be the women's leader on the Kreis staff of the Party, would she not? If I am wrong, correct me. Is that her position?

KAUFMANN: Yes.

SIR DAVID MAXWELL-FYFE: And she would not have taken that action of collecting the women of Munich to come and form a group when Cardinal Faulhaber was preaching, without the orders of the Kreisleiter, would she? She would not, would she? It must have been on the Kreisleiter's orders; is that not so?

THE PRESIDENT: Answer the question, please.

KAUFMANN: The incident described here is completely unknown to me and I really cannot imagine that a serious man—in this case a Kreisleiter—would order a measure which in its effects must turn against the Party.

SIR DAVID MAXWELL-FYFE: What I am referring to, you see, is this: Here is a report of a responsible officer in the Wehrmacht. I think he is regimental commander, and it is countersigned by his adjutant. He is saying that the Kreisleiterin who is the women's leader has come to this paymaster's wife and got her to do it. What I am putting to you is: Assuming that Mr. Grueber and this regimental commander are correct—it must do for the moment—assuming they are correct, the Kreisleiterin would not have acted without orders from the Kreisleiter, would she?

KAUFMANN: That is probable. In my Gau, this Kreisleiter would have been dismissed.

SIR DAVID MAXWELL-FYFE: But are you telling the Tribunal that . . .

THE PRESIDENT: Sir David, I think this document speaks for itself.

SIR DAVID MAXWELL-FYFE: If Your Lordship please, I think so. My Lord, I am only going to give another example. I have to deal with just the points raised by Dr. Servatius and limit the examples as much as I can.

THE PRESIDENT: Perhaps we had better adjourn now.

[A recess was taken.]

THE PRESIDENT: Sir David, the Tribunal thinks, with reference to any documents which you may have, perhaps it would

save time, if they are not documents made by the witness who is in the box, if you would just put the documents in without cross-examination.

SIR DAVID MAXWELL-FYFE: I will do it. It will save time. I will welcome this. I will be glad to do as Your Lordship suggests. It suits my purpose much better.

DR. SERVATIUS: Mr. President, the introduction of new evidence unknown to me is, I think, inadmissible; I have no opportunity to comment on these documents, since my own documentary evidence is completed. All my material, affidavits, and documents have been submitted, and my witnesses have been examined. I do not know how I can reply to these new documents.

THE PRESIDENT: I am sure Sir David will let the counsel for the defense have the documents as soon as possible, and if it is impossible for the counsel to re-examine them when he comes to them, he can reply on the document later.

SIR DAVID MAXWELL-FYFE: There are copies available and they will be given to Dr. Servatius right away. The next one I was going to refer to on the question of churches is Document D-901, which is a new document. That contains four reports by Orts-gruppenleiter. I should have said Exhibit GB-536.

THE PRESIDENT: You gave a number to that other document, did you, the other one you put in? Was there not another new document you put in, 1507-PS?

SIR DAVID MAXWELL-FYFE: GB-535, My Lord.

THE PRESIDENT: Yes, very well.

SIR DAVID MAXWELL-FYFE: My Lord, this document consists of four reports from Ortsgruppenleiter and the comments made upon them by the Kreisleiter. My Lord, I shall only quote to the Tribunal the first sentence of the first two reports, which will show what they are.

The first is the Ortsgruppe Darmstadt-Schlossgarten, 20 February 1939, "Point 9, Ecclesiastical questions." I quote:

> "As the caretaker of the parish hall of the parish of St. Martin, Blockleiter and Party Member Keil informs me that meetings of the Confessional Front are again taking place at the St. Martin's House, Müllerstrasse (Ortsgruppe Gutenberg), the public being excluded. Only bearers of red passes are admitted."

And then he makes his objection to the fact that the Bible class is being carried on behind closed doors and he mentions the Gestapo.

The second one refers to a statement by an ecclesiastic. That is from the Ortsgruppe Pfungstadt, 17 February 1939:

"Whoever leaves the Church has different taxes imposed on him, so our much-discussed confessional pastor, Strack, said once again on the occasion of a mothers' evening. This gentleman should really be rapped on the knuckles seriously for once."

And then the third one sends a poem of the Confessional Front and a fourth deals with the continued existence of a Protestant youth club.

My Lord, the comments of the Kreisleiter, which are on the third page—I will just read 1 and 2:

"Report on the political situation for the month of February 1939.

"1. The report of Ortsgruppenleiter Wimmer, St. Martin's parish. The SD, Gestapo, and the competent Ortsgruppenleiter will be instructed by me.

"2. I shall request Ortsgruppenleiter Frick, who reports from Pfungstadt, to go to the Kreisleiter tomorrow and shall get him to name his witnesses. This will be communicated to you and to the Gestapo (to the latter with a report of the case). The pastor Strack is sufficiently well known and ripe for the concentration camp or the Special Court. His reported statement before fellow-Germans constitutes an infringement of the law against malice. In any case, the fellow must disappear from the territory of the Kreis or Gau."

My Lord, I do not think I need trouble the Tribunal with any more. That is the essential point.

Now, My Lord, I have two documents on slave labor which are also new. My Lord, the first is Document 315-PS, which will become Exhibit GB-537. My Lord, that is the minutes of a conference on the treatment of foreign labor, on 12 March 1943.

My Lord, the object of this document is to show that it was a deliberate and general change of policy and if Your Lordship will look at the middle of the second paragraph, Your Lordship will find the sentence:

"In this instance the hitherto prevailing treatment"—now that is the point I want to emphasize—"the hitherto prevailing treatment of the Eastern Workers has led not only to a diminished production but has also most disadvantageously influenced the political orientation of the people in the Occupied Eastern Territories and has resulted in the well-known difficulties of our troops. In order to facilitate military operations the morale has to be improved by a better treatment of the Eastern Workers in the Reich."

Now, My Lord, the importance of that is shown when you get that coming into the Party channels, which is shown in the next Document 205-PS. My Lord, that will become Exhibit GB-538.

My Lord, you see, that is from a decree of the Defendant Bormann. It comes from the Party Chancellery and it says:

"The Reich Propaganda Ministry and the RSHA have together issued a memorandum concerning the treatment of foreign laborers employed within the Reich.

"I request in the attached copy that the necessity for a firm but just treatment of the foreign workers be made clear to members of the Party and to fellow Germans."

And the distribution is to Reichsleiter, Gauleiter, Kreisleiter, and Ortsgruppenleiter.

My Lord, on Page 2, Number 1 on Page 2, the third paragraph on Page 2, it begins:

"Everyone, even the primitive man, has a sensitive perception of justice. Consequently, every unjust treatment has a very bad effect. Injustices, insults, trickery, maltreatment, *et cetera,* must be discontinued. Punishment by beating is forbidden. Concerning the severe measures for insubordinate and seditious elements, the workers of foreign nationality are to be informed correspondingly."

My Lord, the importance the Prosecution attaches to this is the word "discontinue" in that directive.

My Lord, as Your Lordship sees the two documents together, the connection shows that there is a definite change.

Now, My Lord, the third document is D-884, which will become Exhibit GB-539 and, My Lord, that is dated 28 March 1944. It is a Party order, issued in the Gau Baden-Alsace, issued from Strasbourg on 28 March 1944 and you will see it is headed "Gaustabsamtsleiter" and is "secret" and it deals with sexual intercourse between foreign workers and Germans. And, My Lord, it explains the course that is to be taken with the foreign worker and in the case of a child resulting from the intercourse and, Your Lordship, on the top of the second page of the document, it says:

"The following principles exist with regard to sexual intercourse between German men and female foreign workers:

"Should the foreign female worker have been induced to sexual intercourse by the German man (for instance by taking advantage of a condition of dependency) she will be taken temporarily into protective custody and then sent to another place of work. In other cases, the foreign female worker will be sent to a women's concentration camp. Women in the state of pregnancy will be sent to the concentration camp only after

delivery of the child and the period of nursing. The treatment of the German man concerned is also the subject of special directives. If he has seriously violated his supervisory or disciplinary duties, female foreign workers will be taken away from him and no more allotted to him in the future. Further measures, depending on the circumstances of the case, will be taken by the State Police."

It applies to the Polish race, people from the Government General, Lithuania, former Soviet territory and Serbia.

And then Paragraph 2 deals with the child, and first of all Your Lordship will see at the end of the first paragraph that the heading is:

"Regarding the treatment of pregnant foreign female workers and children given birth to by the same in the Reich."

The last sentence in the first paragraph says:

"The procedure for an application for abortion is once more explained below . . ."

And then there are various health and racial investigations.

In Paragraph 5 it says:

"If the investigations show that the progeny will be racially satisfactory and hereditarily healthy, they will, after birth, go to homes for foreign children to be looked after by the NSV (National Socialist Welfare Organization)"—That is the Party organization—"or will be looked after by families.

"In negative cases the children will be lodged in foreign children's nurseries."

And then the last paragraph:

"I request the Kreisleiter to record immediately through the channels indicated above, in conjunction with the Kreisobmann of the German Labor Front and the Kreis peasant leader, all cases of pregnancy which have hitherto occurred and all children hitherto born. An examination in accordance with the new directives of all children of foreign female workers who were taken under the care of the NSV already before the issue of the new instructions is also necessary."

Your Lordship will see the distribution. It is to Gauobmann of the German Labor Front, that is the representative of the DAF in the Gau, Gau propaganda chief, press chief, and then the Gauamtsleiter, the person in the office of the Gau dealing with racial policy, national health, the peasantry, national welfare, questions of race, the Gau women's leadership, and the Gau Labor Office, and then Kreisleiter and the Kreis of the DAF and the Kreis peasant leaders. It goes, also, My Lord, to the Security Police and SD and the Office

of the Commissioner for the Reichskommissar for the consolidation of German race.

My Lord, I am very grateful to Your Lordship for that. It saves a considerable amount of time.

DR. SERVATIUS: Mr. President, I must raise a question with regard to the evidence. Document 205-PS, which has just been submitted, was a new document; the witness was not questioned on it at all. I assume that the evidence as such is completed and that no new documents can be introduced by the Prosecution. I request, therefore, that this document be struck out. It should have been brought before the Commission and shown to the witness; then I would have had an opportunity of producing further evidence.

This is a fundamental question which will arise repeatedly. The document was not submitted to the witness; its authenticity was therefore not tested.

THE PRESIDENT: It was not submitted to the witness because of the order that the Tribunal has just made. In order to save time, the Tribunal suggested to Sir David Maxwell-Fyfe that he should put the document in in that way. I said—I understood you to assent to it—that the document should be shown to you and that you should have an appropriate opportunity to comment upon it.

DR. SERVATIUS: I know the document, but I would like to clarify the fundamental question of whether the evidence of the Prosecution is finally closed or whether new documents can still be introduced into the proceedings.

THE PRESIDENT: The Tribunal considers that the Prosecution can certainly call evidence and use documents if they wish to rebut the evidence which has been called on behalf of the organization.

DR. SERVATIUS: Without showing them to the witness?

THE PRESIDENT: The only reason for not showing it to the witness was that the document was not a document which the witness made, and in view of that it appeared to the Tribunal to be a matter of comment upon the document, and if you have got an opportunity to put the document to the witness yourself or to comment upon the document, you have got a full opportunity to deal with it.

DR. SERVATIUS: Then I would also be permitted, if necessary, to submit a counterdocument?

THE PRESIDENT: Yes, certainly. You can ask this witness anything you like about the document.

DR. SERVATIUS: Mr. President, at the end the witness was asked less about facts; rather he was confronted with an argument, on which I think I can comment in my final speech.

THE PRESIDENT: I did not quite understand what you said then about an argument.

DR. SERVATIUS: The witness was asked about things which were unknown to him. Examples were put to him of events in individual Gaue, of which he knows nothing. He only had to draw conclusions as to what interpretation was to be given to the documents.

THE PRESIDENT: On general principles, you can ask him anything in re-examination which properly arises out of his cross-examination. If he was cross-examined upon a document, or if the document was put in now, in the way it has been, you can ask him any question upon the document or upon his cross-examination upon the document.

DR. SERVATIUS: Yes; I have a few questions.

Witness, the document, the order of the Deputy of the Führer, Hess, of 13 March 1940 was shown to you. It is Page 43 in the German document book. The order contains instructions to the civilian population on their conduct in the event of landings of enemy planes or parachutists on German Reich territory. You were referred to Number 4, where it says, "Likewise enemy parachutists are immediately to be arrested and made harmless." You observe that the letter is dated 1940; what was the situation in the air at that time?

KAUFMANN: I no longer have the letter at the moment, but I remember that it was dated 1940. My first answer to this question was meant to express that the air situation and the whole war situation at that time permitted only a humane interpretation of this term, if it was looked upon as misleading.

DR. SERVATIUS: Was there not a danger that airmen would land for espionage purposes and do not the words "to make them harmless" refer to this type of parachutist?

KAUFMANN: In air war all sorts of people parachuted from planes—fliers in distress, sabotage units, agents in civilian clothes, and so on. To which of those groups these words refer, is not clearly indicated in the text.

DR. SERVATIUS: May I call your attention to Number 2 which says, "Fliers are to be arrested immediately and, before all, restarting or destruction of the plane is to be prevented," and Number 4 says, "Enemy parachutists are likewise to be arrested and made harmless." Does not the use of the term "likewise" show that the order is concerned primarily only with the arrest of the airmen?

KAUFMANN: I repeat that in the war situation of 1940 I understood the term "unschädlich" to mean solely to disarm them, but in no case to maltreat or to kill them.

DR. SERVATIUS: I have no further questions to put to the witness.

THE PRESIDENT: Witness, were these Political Leaders paid—paid salaries by the Party?

KAUFMANN: No. A very small percentage, less than 1 percent, were, in my estimate, paid officials. The majority of them were honorary, unpaid officials.

THE PRESIDENT: That applies to all the ranks of the Party officials, does it?

KAUFMANN: No. The amount of work involved in the higher positions was too great to be discharged in one's spare time in an honorary capacity along with one's own professional duties.

THE PRESIDENT: Were all the Gauleiter paid?

KAUFMANN: After the seizure of power, yes; if they did not hold a State office.

THE PRESIDENT: And what were they paid—how much?

KAUFMANN: I myself never received a salary as a Gauleiter. Up to 1928 I earned my own livelihood. From 1928 on, I was a parliamentary delegate, and from 1933 I was a Reich Governor. The cases of most of my comrades were similar.

THE PRESIDENT: You mean from 1933 on most of them had State offices which carried salaries?

KAUFMANN: Yes.

THE PRESIDENT: And what about the Kreisleiter?

KAUFMANN: Up to the seizure of power, all Kreisleiter were, on principle, honorary and unpaid officials.

THE PRESIDENT: And after?

KAUFMANN: And later also for a number of years. I estimate that the majority of them became officials and received salaries from 1937 or 1938 onwards. But even then there were exceptions.

THE PRESIDENT: Became State officials you mean?

KAUFMANN: No, not State officials—Party employees.

THE PRESIDENT: And received salaries; I see. And the lower ranks, the Ortsgruppenleiter and the Blockleiter?

KAUFMANN: No; from Kreisleiter down, all were honorary officials.

THE PRESIDENT: Even after 1933?

KAUFMANN: Yes.

THE PRESIDENT: And after 1937?

KAUFMANN: Also. Some of the most important members of the staff of the Kreisleiter were paid, but the majority of his staff were honorary officials. From Ortsgruppenleiter down, including Ortsgruppenleiter, all were honorary and unpaid officials.

THE PRESIDENT: From what source were they paid when they were paid?

KAUFMANN: By the Reich Treasurer of the Party.

THE PRESIDENT: And from what source did he get the money to pay them?

KAUFMANN: From the contributions of members of the Movement.

THE PRESIDENT: The funds of the Party were kept separate, were they?

KAUFMANN: The Reich Treasurer's financial administration was completely separate.

THE PRESIDENT: Were the accounts of the Party published?

KAUFMANN: No. I know only that occasionally at conferences with the Führer the Reich Treasurer made a brief financial report, but that was not published.

THE PRESIDENT: Was there any reference to Party funds in the State budget or the State accounts?

KAUFMANN: No. On the contrary, I had the impression that the Reich Treasurer disposed of very extensive funds from the revenues of the Party insurance, and from the dues of members.

THE PRESIDENT: Will you call your next witness, Dr. Servatius?

DR. SERVATIUS: With the approval of the Tribunal, I shall call the witness Kreisleiter Willi Meyer-Wendeborn.

[The witness Meyer-Wendeborn took the stand.]

THE PRESIDENT: Will you state your full name?

WILLI MEYER-WENDEBORN (Witness): Willi Meyer-Wendeborn.

THE PRESIDENT: Will you repeat this oath after me: I swear by God—the Almighty and Omniscient—that I will speak the pure truth—and will withhold and add nothing.

[The witness repeated the oath.]

THE PRESIDENT: Sit down.

DR. SERVATIUS: Witness, when were you born?

MEYER-WENDEBORN: 24 June 1891.

DR. SERVATIUS: You were a Kreisleiter in Cloppenburg, Oldenburg, in Gau Weser-Ems for 12 years, from 1934-1945; on repeated

occasions you acted temporarily as head of the neighboring Kreis Vechta; before that time you were an Ortsgruppenleiter for about a year and a half; is that correct?

MEYER-WENDEBORN: I was in Cloppenburg for 11 years.

DR. SERVATIUS: That was from 1934 until when?

MEYER-WENDEBORN: From 1934 to 1945.

DR. SERVATIUS: Did you have knowledge of conditions in the administration of other districts beyond your own?

MEYER-WENDEBORN: Yes; as Ortsgruppenleiter, and later as Kreisleiter, I was in a position to gain information, since I repeatedly met the political leaders and the Kreisleiter.

DR. SERVATIUS: Were you, as Kreisleiter, paid a salary or were you an honorary official?

MEYER-WENDEBORN: During the first half of my term of office I was an honorary official; later I received a salary.

DR. SERVATIUS: What other political leaders in the Kreisleitung received a salary?

MEYER-WENDEBORN: The Kreis executive, the propaganda director, the training director, and the head of the financial department.

DR. SERVATIUS: Did the paid political leaders in the Kreis receive special secret instructions?

MEYER-WENDEBORN: No, never.

DR. SERVATIUS: Did they have better insight into conditions?

MEYER-WENDEBORN: They saw and heard more than the others.

DR. SERVATIUS: Of what persons did the Kreisleitung consist?

MEYER-WENDEBORN: Firstly, the main or leadership offices; these were organization, propaganda, training, and personnel. Secondly, the social and technical offices, such as the Kreis peasant leader, the Obmann of the DAF (German Labor Front), the head of the NSV, the head of the office for educators, and the head of the office for civil servants.

DR. SERVATIUS: Did the members of the Kreisleitung when appointed become members of the Corps of Political Leaders?

MEYER-WENDEBORN: An appointment as a member of the Corps of Political Leaders did not exist. When a Party member was appointed to an office, he became a Political Leader.

DR. SERVATIUS: Do you know of an order of Hess forbidding the use of the designation "political organization" or "Corps of Political Leaders"?

MEYER-WENDEBORN: The designation "political organization" was forbidden by the then Deputy of the Führer.

DR. SERVATIUS: As Kreisleiter, you held conferences in the Kreisleitung. Who took part in these conferences?

MEYER-WENDEBORN: There were two kinds of conferences: One, among a narrow circle, the Kreis staff, and the second, among a larger circle, in which State and community representatives and others who wished to bring up special matters took part.

DR. SERVATIUS: Were the subjects of the conferences purely economic, or were political questions also discussed?

MEYER-WENDEBORN: Primarily social questions affecting the inhabitants of the Kreis were discussed. At the end of the conferences I usually gave a brief account of events in the past few weeks.

DR. SERVATIUS: Were not critical political questions discussed and instructions issued which might have had a reference to the removal of obstacles in the way of waging a war of aggression, for example, instructions on the Jewish question, the Church question, the trade union question, and the arrest of political opponents?

MEYER-WENDEBORN: I did not have to give special instructions. We were strictly forbidden to carry on our own policies. We never heard anything about preparations for war. When any measures had to be taken against political opponents, it was the affair of the State.

DR. SERVATIUS: What instructions were given on the Jewish question and what was their aim?

MEYER-WENDEBORN: With regard to the Jewish question, which did not have great significance in our rural Kreis, we were concerned primarily with the basic objective, namely, the reduction of Jewish influence to a percentage of Jews corresponding to their total strength in Germany.

DR. SERVATIUS: What directions on the Church question did you issue in your capacity as Kreisleiter, and what was their aim?

MEYER-WENDEBORN: The fight against the churches was forbidden on principle. There was no need to give any instructions on that subject, for my men were all Catholic and had remained members of the Church.

DR. SERVATIUS: What about the anti-Jewish actions on 9 and 10 November 1938? What instructions were given at that time?

MEYER-WENDEBORN: I received no instructions, and was faced with the accomplished fact. In agreement with the Landrat I immediately freed Jews who had been arrested, and subsequently

I received strict instructions from my Gauleiter not to allow Political Leaders or Party members to take part in these things in any way. That is all that happened in our district.

DR. SERVATIUS: What instructions were given on the question of the trade unions, and what was their aim?

MEYER-WENDEBORN: The measures of Reichsleiter Dr. Robert Ley on 1 or 2 May were a complete surprise to us. We ourselves, as Political Leaders, had nothing to do with them and no instructions were issued.

DR. SERVATIUS: What instructions did you as Kreisleiter give with regard to political opponents?

MEYER-WENDEBORN: The treatment of political opponents was primarily the task of the State authorities. If I suspected anyone of being an opponent, I always took the opportunity of having a discussion with him, and as a result it was not necessary to take more than a few measures.

DR. SERVATIUS: Was there not, in fact, such a close relationship between the State Police and the Kreisleitung that, in practice, the Kreisleiter could at any time arbitrarily order the arrest of political opponents?

MEYER-WENDEBORN: That would have been a good thing. When I repeatedly suggested that to the Gauleiter, at the time Karl Roever, I was told that these were measures of the State which did not concern us as Political Leaders.

DR. SERVATIUS: Witness, you misunderstood me. My question was, did your close connections with the State Police enable you to order arrests?

MEYER-WENDEBORN: No, I could not order arrests. I had no close connections with the State Police, and I never had occasion or opportunity to have anybody arrested.

DR. SERVATIUS: Was not a card index of opponents kept on orders of the superior Party offices?

MEYER-WENDEBORN: We never kept such a card index, either in the Kreis or in Ortsgruppe.

DR. SERVATIUS: Did the Gestapo keep such a card index, and did you assist in keeping it?

MEYER-WENDEBORN: I cannot tell you. I was never told about it; I do not know. In any case, I certainly did not assist in keeping it.

DR. SERVATIUS: Did you not, as Kreisleiter, ask for general reports on the feeling and political views of the inhabitants who

were listed in a local card index for the individual households, and were these not reports of spies?

MEYER-WENDEBORN: There was no local card index for households in my Kreis. It was intended to set up one, but that was never done. I never asked for spy reports, and I would never have received them; but I did ask for reports on the feeling of the people with regard to measures taken by the State and the Party.

DR. SERVATIUS: And what was the purpose of these reports?

MEYER-WENDEBORN: We wanted to know what effect the new laws and directives would have on the mass of the people.

DR. SERVATIUS: How did you receive your instructions from the Gauleiter?

MEYER-WENDEBORN: I received my instructions in writing, and also orally.

DR. SERVATIUS: Did the Kreisleiter take part in conferences with the Gauleiter? And who was present at such conferences?

MEYER-WENDEBORN: We did not always take part; we were there only when something of special interest to our own Kreis was being discussed. At the conferences of the Gauleitung, the members of the Gau offices and the consultants took part.

DR. SERVATIUS: What was discussed at these conferences? Were they similar to the Kreisleiter conferences which you mentioned earlier?

MEYER-WENDEBORN: They were roughly similar, but on a larger scale ranging over the whole of the Gau.

DR. SERVATIUS: How did you instruct the Ortsgruppenleiter? Was that done on the basis of the Gau and Kreis conferences, or was the information which was passed on to them somewhat changed, that is, false?

MEYER-WENDEBORN: After conferences with the Gauleiter, I regularly passed on to my men what I had heard there, and I passed it on in the form in which I had heard it from my Gauleiter.

DR. SERVATIUS: How did you co-operate with the SA? Was the SA represented in the Kreisleitung?

MEYER-WENDEBORN: I left it to the discretion of the SA to take part in our conferences. The local leader came occasionally and listened to what we were generally discussing.

DR. SERVATIUS: Could you give orders to the SA or request its aid?

MEYER-WENDEBORN: I could not give any orders to the SA. I could only, through its superior officers, ask for its aid in any propaganda measures, collections, employment assistance, and so on.

DR. SERVATIUS: What sort of co-operation existed between you and the General SS? Was it represented in the Kreisleitung?

MEYER-WENDEBORN: We had no local SS leader. The SS itself did not ask to be represented in the Kreisleitung.

DR. SERVATIUS: Did you have any insight into the measures which the SS took with regard to protective custody and concentration camps?

MEYER-WENDEBORN: No, I had no insight into that.

DR. SERVATIUS: Did you ever attempt to obtain such insight?

MEYER-WENDEBORN: Yes. It was about 1935, but I did not succeed in obtaining it. I was refused a visit to a concentration camp, which I did not want to visit because of any suspected atrocities, but because it was new to me.

DR. SERVATIUS: And what reason were you given?

MEYER-WENDEBORN: I was told to get permission through the RSHA. I asked the Gauleitung to do that because I was not permitted to contact the RSHA personally. The Gauleitung then advised against it, because it would be very complicated.

DR. SERVATIUS: Do you know whether the RSHA was the competent authority?

MEYER-WENDEBORN: No, I do not know.

DR. SERVATIUS: Did you in your Kreis receive or issue instructions with regard to the lynching of fliers who had made forced landings?

MEYER-WENDEBORN: We had many forced landings. I never issued and was never told to issue any instructions on this subject.

DR. SERVATIUS: But you surely know the Bormann letter and other documents which deal with this matter. Did you, as Kreisleiter, not learn of these?

MEYER-WENDEBORN: I did not receive the Bormann letter, but I heard the article of the Reich Propaganda Minister on the radio.

DR. SERVATIUS: And then what happened in your Kreis? Was any action taken in the spirit of Goebbels' statements?

MEYER-WENDEBORN: We continued to act according to the general rules of warfare, and the men who landed were always treated very well. The population regarded that as natural.

DR. SERVATIUS: Did you receive or issue instructions ordering bad treatment of prisoners of war or foreign workers, or did you permit such treatment?

MEYER-WENDEBORN: I could not issue instructions for prisoners of war; only the Armed Forces could do that. But I carefully

saw to it that foreign workers in our district were well treated. And if a beating or some such incident occasionally occurred, I immediately had the workers removed through the Labor Office, and the people for whom they had been working were on purpose left without help for some weeks.

DR. SERVATIUS: Instructions about unjust treatment of these foreign workers did not reach you?

MEYER-WENDEBORN: No. On the contrary, I was asked to see to it that they were well treated.

DR. SERVATIUS: Was the attitude of the Political Leaders in your Kreis with regard to the critical political problems which we mentioned earlier an exceptional one, or was that also the attitude outside your Kreis, as far as you could judge? Was it a general attitude?

MEYER-WENDEBORN: Before the war, I had the feeling that that attitude was general. Also during the war; and then while I was in the Fallingbostel Camp and helped to obtain affidavits, I was able to convince myself finally that what I am saying here was generally true for those thousands.

DR. SERVATIUS: You checked and collected these affidavits?

MEYER-WENDEBORN: Yes.

DR. SERVATIUS: Did you not reject unfavorable ones?

MEYER-WENDEBORN: No, I never did that. There were no unfavorable ones.

DR. SERVATIUS: Then how do you explain the incidents which actually happened, for example, in connection with the Church question and the Jewish question?

MEYER-WENDEBORN: We never knew of the whole extent of these things; we heard very little. It did happen that one man or another who had not forgotten some experience from the period of the struggle to power misunderstood some instructions and wanted to do stupid things. But in general we did not experience such incidents and knew nothing about them.

DR. SERVATIUS: Then none came to your knowledge?

MEYER-WENDEBORN: No.

DR. SERVATIUS: Did not the attitude of the SS, and particularly the refusal to give you permission to visit a concentration camp, cause strong misgivings? You heard rumors about these concentration camps, did you not?

MEYER-WENDEBORN: I did not consider this refusal to let me visit a concentration camp as an attempt to conceal crimes, but in

view of the character of the SS, I assumed that it was a form of self-glorification, and that the SS thought: These camps are in our charge and are not the affair of the Political Leaders.

DR. SERVATIUS: Did you approve the methods of the Party in every way?

MEYER-WENDEBORN: No, I did not always approve, and I discussed this matter with my old-time Gauleiter.

DR. SERVATIUS: Did you have serious objections?

MEYER-WENDEBORN: No, my objections were not serious objections, but after this Jewish affair in November, I had to point out the effect which it would have abroad. I had heard that men in high positions did not at all approve, and that gave me courage to voice my own misgivings.

DR. SERVATIUS: Did you ever consider whether you should continue in office or resign?

MEYER-WENDEBORN: If I had resigned, I would not have improved matters, but only aggravated them; for I had been in the Kreis for 20 years and my successor could not have known my men so well; as it was, I could recognize mistakes in time and correct them.

THE PRESIDENT: Is that all you want to ask?

DR. SERVATIUS: I wanted to put one or two more questions in the morning.

THE PRESIDENT: Well, the Tribunal will adjourn.

[The Tribunal adjourned until 31 July 1946 at 1000 hours.]

ONE HUNDRED AND NINETY-FIRST DAY

Wednesday, 31 July 1946

Morning Session

[The witness Meyer-Wendeborn resumed the stand.]

DR. SERVATIUS: Witness, did you consider the Blockleiter and the Zellenleiter as Hoheitsträger?

MEYER-WENDEBORN: No.

DR. SERVATIUS: Do you not know that in the *Organization Book* of the Party, the Blockleiter and the Zellenleiter are defined as Hoheitsträger?

MEYER-WENDEBORN: I read that, but I was never able to follow it because the *Organization Book* started from assumptions which were not given.

DR. SERVATIUS: What do you understand by the term Hoheitsträger?

MEYER-WENDEBORN: The Hoheitsträger is the leading representative of the Movement in his district. He is entitled to give orders to his subordinate Political Leaders and Party members. Moreover, his official and private bearing must at all times be such that non-Party members and State officials will respect him and will listen to him without any legal obligation to do so.

DR. SERVATIUS: You spoke of the rights which the Political Leaders have. Did the Blockleiter and Zellenleiter also have these rights?

MEYER-WENDEBORN: No, they did not have them and did not want them.

DR. SERVATIUS: Had the Blockleiter and Zellenleiter any authority to call on the SA, the SS, or the Police?

MEYER-WENDEBORN: No, they were powerless to do so.

DR. SERVATIUS: Then it is true that the Blockleiter and the Zellenleiter were only assistants to the Ortsgruppenleiter and had no powers of their own?

MEYER-WENDEBORN: The Blockleiter and the Zellenleiter were the noncommissioned officer corps of the Ortsgruppenleiter.

DR. SERVATIUS: I have no more questions to put to this witness.

LIEUTENANT COLONEL J. M. G. GRIFFITH-JONES (Junior Counsel for the United Kingdom): I have certain new documents, two or three pages, in connection with other matters. If the Tribunal wishes it I could present these documents perhaps quickly in the way the Tribunal indicated to Sir David or I could put it in the form of cross-examination. Whatever the Tribunal thinks most convenient.

THE PRESIDENT: Colonel Griffith-Jones, if it does not interfere with your case or cross-examination, perhaps it would be better to put the documents in, simply indicating the page or subject.

LT. COL. GRIFFITH-JONES: That will be done.

THE PRESIDENT: If there is anything particular with this witness you may have . . .

LT. COL. GRIFFITH-JONES: The first matter with which I was intending to deal is the action taken by the Leadership Corps in connection with elections, and I would refer the Tribunal to Document D-34 which will become Exhibit GB-540. I understand the Tribunal has copies of that document. That is a letter from the NSDAP District Memel, dated 26 May 1936 and addressed to Kreisleiter and Organisationsleiter. It is from the NSDAP, Memel District, and translated from the German. It refers to the Reichstag elections of 29 March 1936 and states that in pursuance of an inquiry from the Reich Minister of the Interior, Party member Dr. Frick, a report is to be made on any civil servants who did not record their votes on 29 March 1936:

> "As far as such cases are known within your Ortsgruppe or your Stützpunkt, you will report them to me by name, at the latest by 3 June of this year . . ."

The expression "Stützpunkt section"—this is a smaller organization than an Ortsgruppe and was eventually abolished but in 1936 still existed.

> ". . . you will report them to me by name at the latest by 3 June of this year. The information will have to be correct under all circumstances."

Then the last paragraph, My Lord.

> "This circular has to be destroyed immediately after the matter is settled."

My Lord, the next document is Document D-897, which becomes Exhibit GB-541, and that is a document in connection with the plebiscite of 1938. The first point I make on that is that it shows that the activity referred to in the letter I have just mentioned was

not an isolated case. My Lord, the second point upon this document is that it shows the close co-operation between the Security Police and the Political Leaders.

On Page 1 of that document appears a special order, dated 4 April 1938, from the Security Service of the Reichsführer SS at Erfurt, which is in Thuringia, the Gau of which Sauckel was Gauleiter. It is "top secret, strictly confidential," addressed to all heads of sections and to Stützpunktleiter:

"Stützpunktleiter are to report, not later than 1800 hours on 7 April 1938, all persons in their district about whom it is safe to assume (with 100 percent certainty) that they will vote 'no' at the impending plebiscite. (Do not forget the International Jehovah's Witnesses.)

"Heads of sections are to support the Stützpunktleiter locally as much as possible in this matter.

"This matter is also to be carried out in closest collaboration with the Ortsgruppenleiter of the Party. The Ortsgruppenleiter will be instructed by the Aussenstellenleiter (head of the branch office) personally after 1800 hours on 5 April 1938."

I think I can omit the next paragraph and then I go on:

"The tremendous responsibility which the Stützpunktleiter have, in particular with regard to this report, is stressed once more. The Stützpunktleiter must have no doubts as to the possible consequences for the persons listed in their report. Special attention should be paid as to whether the persons who impart such information to the Stützpunktleiter and from whom the Stützpunktleiter make their inquiries are not motivated by personal reasons; even Political Leaders are not excepted from this.

"The confidential nature of this order is again emphasized.

"The order is to be minutely memorized and thereafter destroyed immediately. Every Stützpunktleiter is personally responsible to me for the complete destruction of this order."

The reasons for the necessity for accuracy appear from the following documents. On Page 2 there are set out certain sections of the population about whom inquiries have got to be made and who have to be particularly watched. It will be seen in the first paragraph:

"Increased attention is to be devoted to participation in and the results of the plebiscite on 10 April 1938, particularly in small towns and villages. It must, above all, be ascertained whether the opponents are to be found in Marxist and other circles of opposing ideologies."

Then under the heading "Catholicism," I draw the attention of the Tribunal to Number 2:

"Was any attitude expressed during church services and similar meetings?"

THE PRESIDENT: The Tribunal will adjourn.

[A recess was taken.]

THE PRESIDENT: The Tribunal will, if it is convenient to the officers of the Court, not have any further recess before 1 o'clock.

LT. COL. GRIFFITH-JONES: My Lord, I had reached Paragraph Number 2 under "Catholicism" on the second page of Document D-897: "Was any attitude expressed during church services and similar meetings?" Perhaps I might be allowed to ask one question of the witness upon that.

Witness, when the Ortsgruppenleiter is charged with making the report on these matters, would it be the Block- and Zellenleiter that he would ask for information as to what was expressed in the various church services throughout his Ortsgruppe?

MEYER-WENDEBORN: No.

LT. COL. GRIFFITH-JONES: Would you tell the Tribunal who it would be, if it would not be the Zellenleiter?

MEYER-WENDEBORN: The Ortsgruppenleiter himself would have asked for this confidential information, if it had been inquired for at all.

LT. COL. GRIFFITH-JONES: Do you think the Ortsgruppenleiter would be able to attend every church service in this Ortsgruppe himself? Do you think that is physically possible for any Ortsgruppenleiter?

MEYER-WENDEBORN: No, they would not have been able to do that, but for such information they would always have had special men from whom they would have obtained advice and information.

LT. COL. GRIFFITH-JONES: Those special men who provided them with advice and information are the Zellen- and Blockleiter, are they not?

MEYER-WENDEBORN: No, they are not.

LT. COL. GRIFFITH-JONES: Very well. Well, we will leave that. The next heading is "Protestantism." I again draw attention to Paragraph 2 under that heading:

"Was any attitude expressed about the Anschluss or the plebiscite during services?"

And the next paragraph:

"What comment did the Church press make?"

And again Number 5:

"Were the bells of all religious communities rung on the evening of 9 April 1938 following the Führer's speech in Vienna?"

Witness, would it be the Block- and Zellenleiter who would report whether the church bells were rung on that evening in their districts?

MEYER-WENDEBORN: They would have been able to say that, for if they had been rung, the Block- and Zellenleiter would have heard them too.

LT. COL. GRIFFITH-JONES: I turn to the next page of the document, the next to the ultimate paragraph:

"It is suggested that the election officials be contacted in a suitable manner where necessary. The exertion of any kind of pressure, however, must be desisted from."

I turn to the next page, Page 3 of the English translation, which is a report from the branch office of the Security Service of Weissensee, dated 25 April, and we begin to see how the instructions regarding the election were carried out:

"Prior to the election, Party member Paul Fritsche from Weissensee, Thuringia, completed a register of all persons suspected of voting 'no.' On the election day every person included on this list received from a specially selected official a voting paper which was marked with a number imprinted by means of a ribbonless typewriter."

Then it describes how the procedure worked.

The next page, I quote from the middle of the large paragraph:

"The election official . . . did not throw the envelope into the voting box immediately, but tried to push it under the cardboard which is placed on the voting box to cover the slit, so as to be able to open the envelope later at an opportune moment."

The next document, the next page, another report from another branch of the Security Service:

"To all Ortsgruppenleiter of the NSDAP of the Kreis of Erfurt-Weissensee:

"The below-mentioned persons on their appearance in your Ortsgruppen area for the purpose of carrying out their voting duty, are to be specially watched and the Kreisleitung of Erfurt (SD office) is to be notified immediately."

There are many names; and lastly:

"By order of the Kreisleiter, this matter is to be strictly confidential."

On the next page there is another report about a Jehovah's Witness, Robert Siering, and his wife, who appeared in a voting center on Sunday morning and deposited their votes after both had been advised of their duty to vote by the Police in Griefstedt and had been threatened with the removal of their child in case of non-participation.

My Lord, the next document, still on the same subject, is D-902, which will become Exhibit GB-542. On the first page of that exhibit we have a report sent to the Erfurt branch office of the Security Service, marked confidential. It is not clear by whom it is signed. It is dated 7 April 1938, and reads as follows:

"After thorough and most careful examination in the area of the Ortsgruppe of Melchendorf and in the closest co-operation with the Ortsgruppenleiter, we have come to the following conclusion:

"The following persons will in all probability vote 'no' at the forthcoming plebiscite."

Then, after setting out the names, it gives what they call "explanations" in the case of each:

"Explanation: 1) Wilhelm Messing, taken into protective custody in 1933 because of illegal activity for the Communist Party . . ."—and so on—"2) Walter Messing, also taken into protective custody in 1933 for slandering the SA."

I do not think I need bother with anything further on that page.

I draw the attention of the Tribunal to the last three paragraphs on the next page:

"Günther Hartung, 113 Johannesstrasse, entrance Wallstrasse, must be reported as being an enemy of the State and opposed to the plebiscite.

"Hartung must be described as morally totally degenerate and it is necessary to lock him up in spite of his advanced age (70 years).

"Among other things, he referred to the German troops on their entry into Austria as loafers. Sufficient witnesses testifying against Hartung are available."

My Lord, on the next page, another report in connection with the plebiscite, I draw the attention of the Tribunal to the penultimate paragraph:

"The wife of the Jew Bielschowski . . . who was dragged along just before closing time of the plebiscite, voted 'no,' as can be proved."

Now, turn to some pages ahead, Page 7 of the English translation, which describes how the votes were screened in another area by a ribbonless typewriter, and then again on Page 9 of the translation, another report:

"The laborer Otto Wiegand . . . was requested four times to record his vote on the day of the election and finally voted only under duress."

And the next report on the same page:

"The married woman Frieda Schreiner . . . did not vote in spite of being repeatedly invited to do so. The above is a fanatic member of the former association of International Jehovah's Witnesses.

"The husband, who holds the same opinions and who was recently involved in criminal proceedings because of them, recorded his vote. To be sure, this was probably exclusively for fear of renewed arrest."

My Lord, the other portion of that document that I referred to is on Page 11, where there is shown an extract from the local newspaper recording the united German vote, which has been obtained by the Security Service with co-operation of the Leadership Corps in the way in which we have seen.

My Lord, again to emphasize that these were not isolated cases, I would refer the Tribunal to a document which has already been put in, and it will be found on Page 91 of the small document book that Sir David handed to the Tribunal yesterday, Page 91 of that book, Pages 118 and 119 of the German. It is Document R-142, Exhibit USA-481. That, it will be seen, is a report again from the Security Service, but this time in Koblenz. I read the second paragraph:

"The high percentage of 'no' votes and invalid votes in nearly all cases is due to the religious attitude of the population, whether they be Catholics or Protestants . . . The district manager"—My Lord, that in the original is the "Kreisgeschäftsführer," who is one of the staff officers of the Kreisleiter—"the Kreisgeschäftsführer of the Kreis Kochem gave the assurance that it was mostly women who voted 'no' or whose votes were invalid. As became known here, a supervisory control was ordered at several of the . . ."

THE PRESIDENT: Colonel Griffith-Jones, this is already in evidence, is it not?

LT. COL. GRIFFITH-JONES: Yes, this is in evidence.

THE PRESIDENT: I do not think you need go into it.

LT. COL. GRIFFITH-JONES: I am much obliged.

I only drew the attention of the Tribunal to it. One further document which is also in evidence will be found at Page 55 of that same document book, at Page 55 and then 54, the documents being 849-PS, which is Exhibit USA-354, and 848-PS, Exhibit USA-353. The two documents together describe how the Party . . .

THE PRESIDENT: Colonel Griffith-Jones, I do not think you ought to comment upon documents which are already in evidence unless they are documents upon which the witness can throw light.

LT. COL. GRIFFITH-JONES: It is a little difficult to make the point which I would have made in cross-examining the witness on these documents if I only confine myself to the new ones without drawing the attention of the Tribunal to other documents which relate to the same matter.

THE PRESIDENT: If they are not new documents and you want to cross-examine the witness about them, you can put them to the witness.

LT. COL. GRIFFITH-JONES: Very well, Sir. I will leave that particular subject now.

The other subject on which I had intended to cross-examine this witness is euthanasia, or mercy killing, and the part the Political Leaders played in those matters. My Lord, this is a new document, D-906, which becomes Exhibit GB-543.

I would refer first of all to the second of the three documents which are printed on the first page of that exhibit; Number 2, Martin Bormann, 24 September 1940, a letter from the National Socialist German Workers' Party, the Führer's Deputy, to the Gauleitung of Franconia, for the attention of Kreisleiter Zimmermann:

> "Your letter of 13 September 1940 was given to me by Party member Hoffmann. The commission which was working at Neuendettelsau is under the control of Reichsleiter Bouhler.
>
> "The text of the notifications to relatives is being variously worded, as I was once more assured yesterday; naturally, however, it can happen sometimes that two families living close to each other receive letters with exactly the same text.
>
> "It is natural that the representatives of Christian ideology denounce the commission's measures; it must be equally taken for granted that all Party offices support, as far as necessary, the work of the commission."

Then I go back to Number 1 on that page; Gaustabsamtsleiter for Franconia, Sellmer—that was another staff officer of the Gau staff—handwritten note from 1 October 1940:

> "Justice. Visit from Party member Blankenburg, Berlin. Action begins in the near future. So far hardly any failures have occurred. 30,000 finished. Further 100,000 to 120,000 are

waiting. The circle of those who are initiated to be kept very small. If necessary the Kreisleiter is to be notified in good time."

Then it goes on:

"The Führer gave the order; the law is ready. At present only clear cases, that is 100 percent ones, are being settled. Later an extension will take place. From now on, notification will be given in a . . . "—it is not clear here from the print. And then at the end of the document—"Kreisleiter Sellmer . . . is to be informed."

I go to Number 3 which is a situation report by the Kreisleitung of Erlangen dated 26 November 1940, dealing with the elimination of mental patients:

"On orders from the Ministry of the Interior, signed Schulz or Schultze, a commission consisting, among others, of a north German doctor and a number of students appeared some time ago in the local sanatorium and nursing home."

And then it describes how he examined the patients who were to be transferred to another institution on orders from the Reich Defense Commissioner and that:

". . . a Berlin transport company was to carry out the transfer and the head of the institution was to follow the directives of this company, which was in possession of the list of names."

In this way three transports with a total number of 370 patients were in the meantime transferred to Sonnenstein near Pirna and to the Linz district. It goes on:

"A further transport is to leave in January of next year. The head of the institution . . ."

And then it goes on for a few lines, and starts again:

"Strangely enough various relatives received notification after the transportation that the patients had died. In some cases pneumonia and in others an infectious disease were given as the cause of death.

"At the same time the relatives were further informed that it had been necessary to cremate the body and that, if they were interested, they could have the clothing of the deceased sent to them. The registry office of Erlangen was also informed by the institution of the various cases of death, and again either pneumonia or an infectious disease was given as the cause—illnesses which had no connection with the previous medical history so that it is to be assumed that false indications were given. The population is terribly disturbed about the transfer of patients, because they connect it with

the cases of death which are becoming known in rapid succession. They speak in part openly, in part secretly, of an elimination of patients for which there is no kind of legal justification. Just now, in war times, such unrest among the population has a doubly unfavorable effect. Moreover, the events described above give the Church and religious circles cause to revive their attitude against National Socialism."

THE PRESIDENT: Under which part of Article 6 of the Charter does this come?

LT. COL. GRIFFITH-JONES: It would come under Crimes against Humanity with respect to . . .

THE PRESIDENT: Are they connected with war?

LT. COL. GRIFFITH-JONES: In some respect, yes, because the purpose of this extermination of old people was to rid the Reich of unproductive elements. My Lord, I cannot for the moment give you the exact reference where that appears, but it does appear upon one of the documents. That is a handwritten addition to that document in the handwriting of the—I beg your pardon, it is an original extract of the situation report from the Kreisleitung of Erlangen.

The next document, My Lord, need not be dealt with at length. The point is that a Kreisleiter is again involved and that it was general knowledge that there were mistakes in the notification of deaths, for instance, one family receiving two urns for one patient.

Number 5 on the next page is much the same. I draw the Tribunal's attention to the middle of the large paragraph, toward the end: "The doctor also informed me that it was well known that the commission consisted of one SS doctor and several subordinate doctors."

My Lord, the next document is on Page 10, Number 12, where we have a protest, or rather, an inquiry about the death of a relative. It is from a Mrs. Marie Kehr and I mention that because it is also referring to another Document 1969-PS. No, it is a new document. It will become Exhibit GB-544, Document 1969-PS. I would ask you to look at the second page of that document where you have a letter from the Reich Minister of the Interior to the Gaustabsamtsleiter in Nuremberg. He forwards Mrs. Kehr's letter and the importance of that document is at the bottom, in ink: "Ortsgruppenleiter, Party member Popp, is of the opinion that one can inform Mrs. Kehr. She is calm and sensible." The document also bears the stamp of the Kreisleiter who has been informed.

My Lord, if I might return quite briefly to the document we were looking at, D-906, Page 6 of that document. The Ortsgruppenleiter in Absberg is writing about incidents which occurred on the

occasion of the latest removal of mentally defective persons from an institution in that town, a sanatorium in that town. He writes to the Kreisleiter and refers to a report of an incident which took place and I can only emphasize that there was public knowledge of what was happening.

And then again on Page 8, another Kreisleiter, this time in Weissenburg, Bavaria, writes about the same disturbances and you see that that goes to the Gau staff office in Nuremberg.

The next document, Number 11, is from a Kreisleiter in Ansbach and he is writing about the removal of patients from yet another sanatorium in another town; and on the top of the following page the Ortsgruppenleiter is involved:

> "Ortsgruppenleiter Reuschel is furthermore of the opinion that he should speak about the removal of the inmates, if possible at the next meeting of Party members, in order to give the facts and above all to dispel the rumors that have arisen that the inmates would very soon be put out of the way, done away with, or poisoned."

Then at the bottom you see another handwritten note: The Organisationsleiter, that is, the Political Leader on the staff of the Hoheitsträger, is to be informed.

My Lord, that concludes the evidence that I was going to ask this witness about. There is one general matter which perhaps the Tribunal will allow me to ask a few questions about.

[Turning to the witness.] Well, perhaps first of all I might ask you this on that evidence, Witness. In view of the documents that you have seen, did you yourself ever have any knowledge of this so-called mercy killing that was going on?

MEYER-WENDEBORN: Once I heard a rumor that somewhere in southern Germany mental patients were being done away with. Thereupon, as was my duty, I immediately inquired of my Gauleiter and after a short time I received the information that this was not true and that in the future I was not to make such inquiries, which were senseless as I ought to be able to see.

LT. COL. GRIFFITH-JONES: Why did you have to make such inquiries?

MEYER-WENDEBORN: Because I had heard such rumors from the population.

LT. COL. GRIFFITH-JONES: Did you know that colleagues of yours in the Corps of Political Leaders were co-operating in that system of murder?

MEYER-WENDEBORN: No, I never knew or suspected that.

LT. COL. GRIFFITH-JONES: Now let me ask you about one other matter. You told the Tribunal yesterday that there was no "Corps of Political Leaders," is that right?

MEYER-WENDEBORN: Yes.

LT. COL. GRIFFITH-JONES: That is not correct, is it? They were recognized officially as "the Corps of Political Leaders," were they not?

MEYER-WENDEBORN: The "Corps of Political Leaders" was spoken of with the intention of teaching people better manners on their appearance in public, and for that reason officers and students' corps were pointed out as examples. There was no official "Corps of Political Leaders" and there could not be any such corps because the men changed constantly and had to come from all parts of the population.

LT. COL. GRIFFITH-JONES: They were called a "Corps of Political Leaders" because on becoming a political leader you became a member of that corps, isn't that the position?

MEYER-WENDEBORN: Since there was no real "Corps of Political Leaders," when one was appointed one could not become a member of it.

LT. COL. GRIFFITH-JONES: And the Political Leaders are referred to as a "Corps of Political Leaders" in the official *Organization Book of the NSDAP,* are they not?

MEYER-WENDEBORN: I am convinced that you can refer to them as such. You have the book. Upon the oath that I have taken I again want to say that I have not had time until now to read this book carefully because my actual tasks were more important than the lectures of this wishful dream—for I cannot call it by any other name.

LT. COL. GRIFFITH-JONES: I have no further questions.

DR. SERVATIUS: *[Turning to the witness.]* I have a question on Document D-897, the first one that was submitted, a letter from the Reich Security Service, subsidiary branch Erfurt, signed by an officer of the branch office. It is addressed to all consultants and Stützpunktleiter (base or operational point leaders). The prosecutor said that the Stützpunkt, which is here referred to, is a Party agency. Is this opinion correct if you read that the letter is addressed to all consultants and Stützpunktleiter and is a letter of the SS?

MEYER-WENDEBORN: I noticed that immediately, too, and I would have referred to it myself. It can only have been a Stützpunktleiter of the SD, for at that time within the political leadership there were no more Stützpunkte but only Ortsgruppen.

Moreover, further down in this letter, in the second place, the Ortsgruppenleiter is specially mentioned.

DR. SERVATIUS: Yes. It says there, "This matter is also to be carried out in close co-operation with the Ortsgruppenleiter of the Party." Is this letter addressed to a subordinate Party agency from a subordinate SS agency?

MEYER-WENDEBORN: At the moment I do not have the letter here, but I recall that it was addressed to the subordinate offices of the branch agency and states that they should contact the Ortsgruppenleiter. It strikes me, at any rate, that the Ortsgruppenleiter was to be informed only 1 day before, while those who received the letter were informed 2 days beforehand and given the necessary information. The confidence in the Party cannot have been very great then.

DR. SERVATIUS: Was the Ortsgruppenleiter here informed through the customary channels of the Party or were the higher Party agencies skipped?

MEYER-WENDEBORN: In this case the information was not passed on in the official way; for it should have been done through the higher Party agency.

DR. SERVATIUS: Therefore I can draw the conclusion then that it is possible that the higher Party agencies knew nothing of this action of the lower SS agencies?

MEYER-WENDEBORN: Absolutely.

DR. SERVATIUS: I have no more questions to put to the witness.

THE PRESIDENT: The witness can retire. Will you call your next witness, Dr. Servatius?

DR. SERVATIUS: With the permission of the Court, I call the next witness, Wegscheider, an Ortsgruppenleiter.

[The witness Wegscheider took the stand.]

THE PRESIDENT: Will you state your full name, please?

HANS WEGSCHEIDER (Witness): Hans Wegscheider.

THE PRESIDENT: Will you repeat this oath after me: I swear by God—the Almighty and Omniscient—that I will speak the pure truth—and will withhold and add nothing.

[The witness repeated the oath.]

THE PRESIDENT: You may sit down.

DR. SERVATIUS: Witness, when were you born?

WEGSCHEIDER: On 30 October 1885.

DR. SERVATIUS: You were Ortsgruppenleiter out in the country for 12 years, from 1933 to 1945, in Hirschdorf, near St. Lorenz?

WEGSCHEIDER: Yes.

DR. SERVATIUS: That is in the Kreis Kempten-Allgäu?

WEGSCHEIDER: No, that is in the Kreis Kempten-Land.

DR. SERVATIUS: And there you were also mayor from 1933 on?

WEGSCHEIDER: Yes.

DR. SERVATIUS: You were a blacksmith and veterinary at the same time?

WEGSCHEIDER: Yes.

DR. SERVATIUS: And, as such, you moved about a great deal in Allgäu?

WEGSCHEIDER: Yes.

DR. SERVATIUS: Did you then have insight into conditions in the other Ortsgruppen in Allgäu?

WEGSCHEIDER: Yes, I knew the 36 Ortsgruppen in the Kreis Kempten-Land fairly well.

DR. SERVATIUS: How many people were there?

WEGSCHEIDER: There were about 40,000 inhabitants.

DR. SERVATIUS: When did you enter the Party?

WEGSCHEIDER: On 28 March 1933.

DR. SERVATIUS: How did you become an Ortsgruppenleiter?

WEGSCHEIDER: On the occasion of the assembly at which the Ortsgruppen were founded on 28 March 1933, I was appointed Ortsgruppenleiter.

DR. SERVATIUS: Did you take an oath?

WEGSCHEIDER: Yes, as Ortsgruppenleiter I took an oath once.

DR. SERVATIUS: You said before the Commission that in 12 years you took the oath 12 times. Is that a mistake?

WEGSCHEIDER: That is a mistake.

DR. SERVATIUS: How did you become the local mayor?

WEGSCHEIDER: In April 1933 the new community council was set up. At about the end of this month the community council elected a mayor, and I had not only the votes of the NSDAP, but also four votes of the Social Democrat Party and one vote of the Bavarian People's Party, and thus I was elected mayor.

DR. SERVATIUS: As Ortsgruppenleiter, did you receive a salary?

WEGSCHEIDER: No.

DR. SERVATIUS: And how about the Ortsgruppenleiter who were not mayors?

WEGSCHEIDER: They did not receive any salary either.

DR. SERVATIUS: For what reason was the office of Ortsgruppenleiter and mayor united in the hands of one man?

WEGSCHEIDER: In the Kreis Kempten-Land there were only country communities, peasant communities, and probably there was no suitable person available. Thus in 10 communities of our Kreis, the mayor and Ortsgruppenleiter were the same person, and in the last analysis it was more expedient.

DR. SERVATIUS: How was your Ortsgruppenleitung made up?

WEGSCHEIDER: First came the Ortsgruppenleiter, then the propaganda and organization, then the treasurer, a press office leader, and later an auxiliary office leader, then two Zellenleiter and about eight Blockleiter.

DR. SERVATIUS: What was the activity of the Block- and Zellenleiter?

WEGSCHEIDER: The activity of our Zellenleiter in the small country communities proved to be futile so that in most of the Ortsgruppen they were abolished. But the activity of the Blockleiter can be considered purely technical in that they did only auxiliary work.

DR. SERVATIUS: Did you consider the Block- and Zellenleiter as Political Leaders and Hoheitsträger?

WEGSCHEIDER: No, since the work of the Blockleiter in the small country communities was meaningless, politically, they could in no wise be called Hoheitsträger.

DR. SERVATIUS: Why did you enter the Party and when did you take over your office as Ortsgruppenleiter?

WEGSCHEIDER: In 1929 I believe. In the following years of 1930, '31, and '32, as I was a blacksmith by profession and as I had very close contact with the peasants, I saw with my own eyes how German agriculture declined year by year. In our district of Allgäu the majority of us had joined the Bavarian Peasant League; a few, the minority, were with the Bavarian People's Party, and the few workers who were in the community joined the Social Democrat Party, while a very small number were Communists.

DR. SERVATIUS: We would like to hear your personal reasons for entering.

WEGSCHEIDER: I have already emphasized how I personally suffered in my own district through the decline.

DR. SERVATIUS: Then it was on account of social reasons?

WEGSCHEIDER: Purely social reasons.

DR. SERVATIUS: What was the attitude of the other Political Leaders in Allgäu? Did they have other reasons for joining, perhaps the fight against the Jews or the acquisition of Lebensraum?

WEGSCHEIDER: The misery was equally great in all agricultural regions and so the attitude might well have been the same.

DR. SERVATIUS: What was the attitude of the Kreisleiter and the Gauleiter?

WEGSCHEIDER: The Gauleiter and Kreisleiter were both patriots and probably they considered their activity and their work in the Party as beneficial to the welfare of our people and our country.

DR. SERVATIUS: Witness, in the Party program other aims are set forth outside of the purely social ones, such as the solution of the Jewish problem. What was the attitude of the Political Leaders toward that question?

WEGSCHEIDER: Since there were no Jewish businesses in our district and therefore no Jewish people lived there, this question was not a burning one for us and hardly came into consideration.

DR. SERVATIUS: Were there no Jewish cattle dealers?

WEGSCHEIDER: No, not in the country. Only in the town of Kempten there was a wholesale firm of cattle dealers, Loew Brothers, and our peasants sold and exchanged cattle there.

DR. SERVATIUS: Were not steps taken against this and voices of protest raised?

WEGSCHEIDER: No, for a long time after the assumption of power our farmers traded with this wholesale firm of cattle dealers.

DR. SERVATIUS: The Party program also contained a demand for settlement space. Could this be done only through conquest and did you receive directives which indicated a preparation for war?

WEGSCHEIDER: I did not receive any directives to that effect and we in the country saw the solution of this settlement and living space problem in the return of our colonies and we were of the firm conviction that this could be achieved by peaceful means.

DR. SERVATIUS: Did not the Political Leaders also see that a large rearmament program was in progress?

WEGSCHEIDER: We in the country saw but little of the rearmament. Only at a Reichsparteitag—I do not recall the exact year—did we see that there were somewhat more airplanes and more tanks. We became convinced that a country and a people like Germany would have to protect her borders for the sake of her own internal reconstruction and we considered this rearmament a necessary evil.

DR. SERVATIUS: Were there not aims which could be realized only through wars of aggression, such as characterized by the slogans, "Away from Versailles" and "Germans Unite"?

WEGSCHEIDER: We discussed this point of the program as well and we saw the union of all German-speaking peoples based on a plebiscite and on the self-determination rights of the German-speaking peoples.

DR. SERVATIUS: Did not trouble arise with the Church soon because of the Party's attitude toward the same? There were attacks on the Church, you know.

WEGSCHEIDER: No, not in the country, especially as among the Party members, Ortsgruppenleiter, and Blockleiter no discrimination was made as to whether they were Catholics or not. We went to church and in my particular Ortsgruppe I and my eight Political Leaders sang in the church choir. The other church musicians and singers, about 30 in all, were also Party members, and belonged to some organization, such as the National Socialist Women's Organization, the BDM, and the Hitler Youth. That applied in my district and I believe more or less it was the same case in other districts as well.

DR. SERVATIUS: Did not the clergymen protest against the steps being taken by the Party in the Jewish question and did not this lead to disputes?

WEGSCHEIDER: As I have already mentioned, there were no Jews living in the country. Therefore, this problem was hardly dealt with at all.

DR. SERVATIUS: Was there not unrest because of the seizing of political opponents and their being taken to concentration camps?

WEGSCHEIDER: In our Kreis Kempten-Land I do not know of anyone having been taken to a concentration camp. Only in my community, and this probably happened right after the assumption of power, two individuals were sent to Dachau, but what the cause and the reason for this was I do not know for at that time I was neither Ortsgruppenleiter nor mayor. My attention was called to this matter when in the year 1933 a woman, Frau Bär, from Rottach near Kempten, came to me and asked me to make an application for the release of her husband who had been interned at Dachau for some months, as it was not possible for her to cultivate her large vegetable garden . . .

DR. SERVATIUS: You need not give us the details. Just tell us what steps you took and what information you gave.

WEGSCHEIDER: I made an application and for several months heard nothing more about it.

DR. SERVATIUS: Was the man released?

WEGSCHEIDER: Yes.

DR. SERVATIUS: Did you speak with him?

WEGSCHEIDER: Yes.

DR. SERVATIUS: What did he tell you?

WEGSCHEIDER: He told me, "I was treated fairly well, the food was good and the treatment too."

DR. SERVATIUS: Did the Kreisleiter and Gauleiter tolerate this more or less easy attitude or did they demand severe measures against all who were not Party members or people who had interests other than those of the Party?

WEGSCHEIDER: Both Gauleiter and Kreisleiter adopted the same attitude. They both rejected severe measures and both of them at meetings always repeatedly made clear to us that we must gain the good will and the confidence of the people by setting a good example.

DR. SERVATIUS: Were not SA and SS units formed in your community so that political opponents could be terrorized?

WEGSCHEIDER: No. There were only very few groups of the SA in the country districts. Those close by were attached to the units in Kempten, and in remote communities, such as Obergünzburg, for instance, the members of these two organizations were united into smaller units. Their activity was purely propagandistic.

DR. SERVATIUS: Was there a unit of the SS there too?

WEGSCHEIDER: In Kempten there was a small SS cavalry unit but you can hardly call it a unit for this group had only eight or ten horses. It also served propaganda purposes.

DR. SERVATIUS: Did not the Party press make known to you the extensive Party demands, as, for instance, on the Jewish question through *Der Stürmer* or on other questions through *Das Schwarze Korps*? You know both of these newspapers?

WEGSCHEIDER: Both of these newspapers went far beyond the ordinary Party program in this point. The Party program merely specified that the Jews were to be removed from influential positions. Apart from that these papers were hardly read in the country.

DR. SERVATIUS: Did you not have to realize that activity of that sort would lead to an aggressive war and to war crimes, such as are the basis of the Indictment today?

WEGSCHEIDER: No; the activity of an Ortsgruppenleiter or of a Blockleiter in the country was of such a nature that it could

hardly give grounds for such a supposition. Our work was purely social.

DR. SERVATIUS: During the war instructions were given regarding the lynching of aviators who had made emergency landings. There was a letter of Bormann and Goebbels which gave directives over the radio and through the press. Did you learn of such directives from the Kreisleiter?

WEGSCHEIDER: Directives of that sort never reached my hands.

DR. SERVATIUS: Did aviators make emergency landings in your territory and were they lynched?

WEGSCHEIDER: No.

DR. SERVATIUS: What happened to them?

WEGSCHEIDER: I, myself, had the opportunity to take in an American flier who had landed about 100 meters behind my home. I took him into my house and fed him and after perhaps a quarter of an hour he was sent for by the Kempten police in an auto. In March 1945—I cannot tell you the exact day—four American prisoners of war who had escaped from a camp at Eidrunk near Kaufbeuren were captured after 12 o'clock by the guard who had been stationed on the Iller bridge at Hirschdorf and brought to me.

DR. SERVATIUS: Was that the general attitude toward this question and the ordinary way of procedure in your region of Allgäu?

WEGSCHEIDER: Yes, that was generally so. The population of Allgäu are very good Catholics and we were all of the opinion that such prisoners of war must actually be treated as prisoners of war.

DR. SERVATIUS: In your Ortsgruppe and in your Kreis, foreign workers were employed. Did you receive directives concerning the treatment of these workers which were contrary to human dignity?

WEGSCHEIDER: No, I cannot say that I received such directives, for the assignment of foreign workers—there were about 60 of them, Polish and Ukrainian civilian workers—was handled by the Ortsbauernführer only, and in our area it was customary for the Bauernführer to discuss all matters of this kind with me.

DR. SERVATIUS: Did you not hear about the fact that these workers were to sleep in a barn and were to receive their food there as well?

WEGSCHEIDER: I know nothing about a directive to the effect that these workers were to sleep in a barn and were to receive their food there. The Labor Office only gave each Polish worker

a note which was to be turned over to the farmer and which said that the Polish workers should not eat at the family table and that they must be at home at a certain hour. In discussing this matter with the Bauernführer at that time, I told him that this could not be done with our peasants in the Allgäu. If the foreign worker involved behaved decently and did his work as well as a German worker, then he was to enjoy the same rights as the German worker.

DR. SERVATIUS: Witness, was it not the case that the comments which one heard among the farmers about the Party in the Reich were such that one would have liked to deviate from certain points, especially during the war?

WEGSCHEIDER: No, I never noticed anything of that sort, for we on the land all believed in the Führer's love of peace, for we knew that Hitler had lived through the horrors of the first World War, and we were convinced of his desire for peace of which we were told time and again.

DR. SERVATIUS: Therefore, you dispute the fact that the Political Leaders in your district deliberately partook in a conspiracy to terrorize the population for the purpose of waging an aggressive war and committing war crimes?

WEGSCHEIDER: No, that was not the case.

DR. SERVATIUS: If, today, an accusation is raised that these Political Leaders in your area were criminals, would you admit that?

WEGSCHEIDER: No, that was not the case.

DR. SERVATIUS: I have no further questions to this witness.

LT. COL. GRIFFITH-JONES: I have two things about which perhaps the Tribunal will permit me to ask a few very short questions. The first is Document EC-68, which is Exhibit USA-205, and the Tribunal will find it on Page 21 of their document book.

Witness, I want to ask you about the Bauernführer on your staff. The Bauernführer was one of the so-called "nonpolitical" Political Leaders, was he not? Can you hear me?

WEGSCHEIDER: I do not understand you.

LT. COL. GRIFFITH-JONES: I will ask you the question again. Was the Bauernführer on the staff of the Gauleiter, Kreisleiter, and Ortsgruppenleiter one of the "nonpolitical" Political Leaders who were said to be merely expert advisers?

WEGSCHEIDER: Yes, the Ortsbauernführer was only indirectly active in the Ortsgruppen staff.

LT. COL. GRIFFITH-JONES: Now, look at that document and explain to me the part that the so-called expert was playing in

connection with slave labor. Do you see that document? It is a document addressed to all Kreisbauernschaften. Do you see that?

WEGSCHEIDER: Yes.

LT. COL. GRIFFITH-JONES: And it would be the duty of the Kreisbauernführer to bring any regulations he received in connection with foreign workers to the notice of the Kreisleiter, would it not?

Witness, please be kind enough to answer my question. Would it be the duty of the Kreisbauernführer to bring to the notice of his Kreisleiter, regulations and instructions which he received in connection with foreign labor?

WEGSCHEIDER: I do not believe so. I believe that was left to the discretion of the Kreisleiter of the Kreisbauernführer and that things which could not be carried through were passed by.

LT. COL. GRIFFITH-JONES: Are you really saying to this Tribunal that that expert whose duty it was to advise his Kreisleiter and keep his Kreisleiter informed and who was continually conferring with his Kreisleiter, would never have drawn his Kreisleiter's attention to the instructions he had received about foreign labor?

WEGSCHEIDER: I must mention that I still hear very poorly.

LT. COL. GRIFFITH-JONES: But I am sure you can hear well enough to answer me.

WEGSCHEIDER: Yes, now I can hear much better.

LT. COL. GRIFFITH-JONES: We won't pursue that matter. We will just see the part that this so-called nonpolitical expert was expected to play himself. Do you see first of all that the:

> "... agencies of the Reich Food Estate, Baden State Peasants Association ... have received the result of the negotiations with the Higher SS and Police Leader in Stuttgart with great satisfaction."

Do you see that?

WEGSCHEIDER: This point?

LT. COL. GRIFFITH-JONES: Do you see that "the Baden State Peasants Association and the Reich Food Estate have received the result of the negotiations with the Higher SS and Police Leader in Stuttgart with great satisfaction"?

WEGSCHEIDER: Yes.

LT. COL. GRIFFITH-JONES: Let us just see what these results are that the Reich's food association was receiving with such satisfaction. You see on that document that Poles are not allowed to complain—they have no right to complain, Number 2; 3 and 4

are not very important; 5, no form of entertainment; 6, no restaurants, no sexual intercourse, no use of public transport, is not allowed to change his employment. In no case may he be granted permission to leave his village and in no case may permission be granted if he wants to visit a public agency on his own, whether it is a labor office or the district peasant association. Why shouldn't he be allowed to visit the district peasant association?

WEGSCHEIDER: I see here that this letter comes from Karlsruhe. That is an entirely different Gau. These measures were not decreed in our region, or at any rate, not to such a large extent. As a matter of fact, the foreign workers during the summer had to be at home at 9 o'clock in the evening, and during the winter they had to be at home at 8 o'clock in the evening . . .

LT. COL. GRIFFITH-JONES: We're really not interested in that. Are you telling us that the care of foreign workers was different in your Gau, to the Gau at Baden or Karlsruhe, and that the Bauernführer had to carry out different tasks in the two different Gaue?

WEGSCHEIDER: Yes.

LT. COL. GRIFFITH-JONES: Very well. Let us just see exactly what they were carrying out in Karlsruhe.

THE PRESIDENT: Colonel Griffith-Jones, is that already in evidence?

LT. COL. GRIFFITH-JONES: Yes.

[Turning to the witness.] I just want to put one new document to you. Will you look at Document D-894? That is a report from a Kreis leadership dated 23 September 1944, subject: Foreigners. Polish youth in the Kali mining area, which has always shown an endeavor to stick particularly closely together, is being watched with especial care. The Ortsgruppenleiter reports that he noticed 13 young Poles who had left Buggingen without permission and who were in possession of medical certificates. He had 11 of these Poles arrested and taken to the Gestapo at Mülhausen for re-examination. I just want to ask you one question on that. Was it a recognized duty of Kreisleiter and Ortsgruppenleiter to hand over Polish workers to the Gestapo when they saw fit?

WEGSCHEIDER: I know nothing at all about such cases in Kreis Kempten-Land and in the town of Kempten.

LT. COL. GRIFFITH-JONES: Nothing like that happened in your Kreis at all?

THE PRESIDENT: Is that a new document?

LT. COL. GRIFFITH-JONES: It is a new document and will be Exhibit GB-545.

I have no further questions to ask this witness.

Perhaps I might supplement my answer to the question raised, I think, by the American judge on the euthanasia point as to how it became a war crime. If I might refer the Tribunal to Page 31 of the document book which they have, which is the protest from Bishop Wurm to Frick and which is familiar to the Tribunal. If the Tribunal will look at the first paragraph of that letter it will be seen that the Bishop states that this action is taking place on orders from the Reich Defense Council. And again, if the Tribunal would turn to Page 36 of their document book, which is another letter which has already been put in, it is a second letter that Bishop Wurm wrote to Frick, this time in September—the first in July of 1940—and now in September he writes again. And in the middle of the paragraph it will be seen he states, "If the leadership of the State is convinced that it is a question of an inevitable war measure, why does it not issue a decree with legal force?" I have no further questions.

THE TRIBUNAL (Major General I. T. Nikitchenko, Member for the U.S.S.R.): Witness, you were a member of the Nazi Party from 1933 on, is that correct?

WEGSCHEIDER: Yes, beginning with 1933.

THE TRIBUNAL (Gen. Nikitchenko): Did you join the Party voluntarily or under constraint?

WEGSCHEIDER: I joined the Party voluntarily.

THE TRIBUNAL (Gen. Nikitchenko): Were you well acquainted with the program of the Party, the tasks, the aims of the Party?

WEGSCHEIDER: Yes, in the course of the years I familiarized myself with the various points of the Party program.

THE TRIBUNAL (Gen. Nikitchenko): And did you completely agree with the program, the tasks, and aims of the Party?

WEGSCHEIDER: Well, perhaps not 100 percent on all points, but on the whole we have seen here that Hitler . . .

THE TRIBUNAL (Gen. Nikitchenko): What was the percentage of your agreement with the aims of the Party?

WEGSCHEIDER: Especially in this matter—that is, the way the Jewish question developed according to the program—it was then spreading, as I have already mentioned, and the people and I myself were no longer quite in agreement with this policy.

THE TRIBUNAL (Gen. Nikitchenko): It was only on the question of the persecution of the Jews that you did not agree with the Party, is that correct?

WEGSCHEIDER: Yes.

THE TRIBUNAL (Gen. Nikitchenko): And with all the rest you agreed?

WEGSCHEIDER: Yes.

THE TRIBUNAL (Gen. Nikitchenko): And now do you still have the same convictions that you had before? Do you agree with the aims and tasks of the Party?

WEGSCHEIDER: Yes. Of course, if action had always been taken in accordance with the program, then we surely would not have had the war. War, of itself, which we had experienced as veterans of the first World War . . .

THE TRIBUNAL (Gen. Nikitchenko): I did not ask you what it might not have come to. Did you understand my question? I am asking you: Do you still share the opinion of the Nazis?

WEGSCHEIDER: No.

THE TRIBUNAL (Gen. Nikitchenko): You renounce them?

WEGSCHEIDER: No.

THE TRIBUNAL (Gen. Nikitchenko): That is incomprehensible, you do not agree and you do not renounce.

WEGSCHEIDER: I beg your pardon.

THE TRIBUNAL (Gen. Nikitchenko): My question is quite simple and clear. Do you still agree with the views of the Nazis?

WEGSCHEIDER: No, that is no longer possible.

THE TRIBUNAL (Gen. Nikitchenko): Why?

WEGSCHEIDER: Because the confidence of the people was abused in many respects.

THE TRIBUNAL (Gen. Nikitchenko): And now do you consider the program of the Nazi Party as correct or incorrect from your point of view? Did you hear the question?

WEGSCHEIDER: No, I did not hear it.

THE TRIBUNAL (Gen. Nikitchenko): I am asking whether now you consider the program and views of the Nazi Party correct or incorrect?

WEGSCHEIDER: No, not any longer.

THE PRESIDENT: Witness, you had a document from Karlsruhe, stating the effect of a certain decree with reference to Polish farm workers. You said that that decree had not been enforced in your Gau. But you said that certain decrees had been in force. To what degree were restrictions placed upon foreign workers in your district?

WEGSCHEIDER: Solely, as I have already mentioned, that in the summer they had to be at home at 9 o'clock in the evening, and in the winter at 8 o'clock. Any other restrictions were not imposed on them, for when I was mayor I received directives from the

Landrat to designate a special inn in the community, where the Polish and Ukrainian farm workers could gather in the afternoon.

THE PRESIDENT: Could they have bicycles?

WEGSCHEIDER: Yes, in Allgäu it is even necessary to have a bicycle. A large part of the meadows and farmland lay at quite a distance from the farmhouse and under these conditions it was not possible for the farmer and his servants to ride bicycles while Polish workers had to walk for perhaps an hour. Most of the Polish workers . . .

THE PRESIDENT: That is quite enough. Now you say that the only restrictions upon them were that they had to be in at a certain time at night?

WEGSCHEIDER: Yes, because other matters and other directives were simply not carried through. Polish workers slept in the same rooms as the Germans, they ate at the family table, and they received much clothing from the farmers themselves, for they arrived in rags.

THE PRESIDENT: Who was it who decided where they had to be employed?

WEGSCHEIDER: The Labor Office.

THE PRESIDENT: And whom did the Labor Office communicate with?

WEGSCHEIDER: The Labor Office communicated with the Kreisbauernschaft and with the Bauernführer.

THE PRESIDENT: So that the Labor Office communicated to you and to the Bauernführer?

WEGSCHEIDER: In this matter chiefly with the Bauernführer.

THE PRESIDENT: Then the Bauernführer told the Labor Office how many laborers they wanted; was that the way it was done?

WEGSCHEIDER: Yes, that is the way it was done.

THE PRESIDENT: How did he allot them?

WEGSCHEIDER: This allotment was left to the Bauernführer. The farmers in the district stated how many workers they needed and, depending on the allotments, they were supplied with workers.

THE PRESIDENT: Was the Bauernführer subject to the orders of the Kreisleiter or the Ortsgruppenleiter?

WEGSCHEIDER: The Bauernführer was subordinate only to the Reich Food Estate—that is the Kreisbauernführer.

THE PRESIDENT: You mean that he was not at all under the orders of the Ortsgruppenleiter?

WEGSCHEIDER: No.

THE PRESIDENT: But directly under the food office, was he?

WEGSCHEIDER: Yes, he was under the Reich Food Estate.

THE PRESIDENT: The witness may retire.

[The witness left the stand.]

DR. SERVATIUS: As my next witness, with the permission of the High Tribunal, I should like to call Dr. Hirt, a Blockleiter.

[The witness Hirt took the stand.]

THE PRESIDENT: Will you state your full name, please?

ERNST HIRT (Witness): Dr. Ernst Hirt.

THE PRESIDENT: Will you repeat this oath after me: I swear by God—the Almighty and Omniscient—that I will speak the pure truth—and will withhold and add nothing.

[The witness repeated the oath.]

THE PRESIDENT: You may sit down.

DR. SERVATIUS: Witness, when were you born?

HIRT: On 25 June 1896.

DR. SERVATIUS: You are at liberty?

HIRT: Yes.

DR. SERVATIUS: You are a Landgerichtsrat and during the war, from 1942 to 1945 you were Kriegsblockleiter here at Nuremberg?

HIRT: Yes.

DR. SERVATIUS: Outside of your block, did you know about the political activities and attitude of the Block- and Zellenleiter?

HIRT: Yes, I had contact with a number of other Block- and Zellenleiter and as a judge I had a further opportunity to get an insight into the activity of Block- and Zellenleiter.

DR. SERVATIUS: Witness, please pause a little between questions and answers so that the interpretation can follow.

In taking office as a Blockleiter during the war did you become a Political Leader through that step?

HIRT: No, I never became that. We were merely entrusted with tasks connected with this office.

DR. SERVATIUS: Were there many such Block- and Zellenleiter during the war who were not Political Leaders?

HIRT: The majority of the Block- and Zellenleiter who were appointed during the war were not Political Leaders, that is, they were not nominated or confirmed by the Kreisleiter, they received no certificate and had no right to wear a uniform.

DR. SERVATIUS: Did the Block- and Zellenleiter take over their office voluntarily?

HIRT: The majority of the Block- and Zellenleiter during the war did not take over their office voluntarily.

DR. SERVATIUS: And how was it in peacetime?

HIRT: In peacetime I rather assume that the larger part of Block- and Zellenleiter took over this activity voluntarily.

DR. SERVATIUS: Was not each Party member obligated to take such an office, and do you understand by that that they did not come in voluntarily?

HIRT: *Per se,* each Party member was obligated to work in the Party or for the Party; but in peacetime it could readily be managed to avoid taking over office, while during the war, in the majority of the cases, this was quite impossible. A number of Block- and Zellenleiter had been called to the colors; the Ortsgruppenleiter ordered Party members who were still left to take over this or that office and it was impossible to refuse without running the risk of some serious consequences.

DR. SERVATIUS: Why did Party members frequently refuse to take over such offices?

HIRT: Well, an activity like that brought with it in many cases considerable work and during the war each man who was fit for work was already additionally burdened in his main occupation.

DR. SERVATIUS: Were not political reasons often the cause for refusal?

HIRT: Yes, a large part of the people who were supposed to take over an office like that were less and less in agreement with various measures taken by the Party and especially measures taken during the war.

DR. SERVATIUS: What was the task of the Political Leaders?

HIRT: The tasks of the war Block- and Zellenleiter were first of all chiefly duties of a social nature. Aside from collecting money and running errands, the Blockleiter above all had to take care of the population as the misery due to the war grew greater, to carry out protective measures against air raids, to supervise collections for the needs of the Armed Forces, and perform other services for the common good.

DR. SERVATIUS: Did the office which you took over correspond with your position as judge?

HIRT: In no way. I considered this work somewhat undignified, for the running of errands, the collection of funds, the systematic keeping of files and similar services were in no way commensurate with my training and with my profession.

DR. SERVATIUS: If you had been nominated a Political Leader then you would probably have been accorded a higher position?

HIRT: Yes, I must assume that, but as war Blockleiter I was not concerned with political activity in any way.

DR. SERVATIUS: Then it was just a matter of carrying out practical work?

HIRT: Yes, we war Block- and Zellenleiter did purely practical work as helpers in the Ortsgruppe.

DR. SERVATIUS: From what stratum of the population did the Block- and Zellenleiter come?

HIRT: The Block- and Zellenleiter, for a large part, were taken from the simple people, the working classes, among manual laborers and people who had rather insignificant positions.

DR. SERVATIUS: And what was the point of view according to which these people were chosen?

HIRT: It was important to find people of good character who were reliable, for money matters were involved, and the honesty of the person had to be beyond doubt.

DR. SERVATIUS: Did the Block- and Zellenleiter not have a staff at their disposal, which would emphasize their importance as Hoheitsträger?

HIRT: I never knew about such a staff, but I do know from various conversations that I had with other Block- and Zellenleiter, people who were active in former years, that there were block helpers where large blocks were involved. I myself did not have a helper of that kind in my block. On the other hand, there was a so-called house warden in each house.

DR. SERVATIUS: And how about the title "Hoheitsträger"? What did it mean?

HIRT: The Block- or Zellenleiter, in any event, could not consider himself a Hoheitsträger, for he had no political authority to issue orders. In our opinion, a Hoheitsträger started with the Ortsgruppenleiter.

DR. SERVATIUS: Conversations took place with the Ortsgruppenleiter. Did the Blockleiter receive directives at these conferences for the combating of political opponents?

HIRT: At these so-called conversational evenings, an assignment to combat, question, or spy political opponents was never given.

DR. SERVATIUS: Now, as a judge and because of your dislike for taking over this office, you probably looked at these things very critically.

HIRT: Yes, that is something I can say about myself.

DR. SERVATIUS: How about the spying upon people for the purpose of sending them to concentration camps. Did you receive directions along that line?

HIRT: At no time did such a directive go out. In my opinion, a Block- or Zellenleiter could not seriously . . .

DR. SERVATIUS: Witness, please pause longer; otherwise the interpreters will not be able to keep up with you.

HIRT: I shall repeat. Such a directive was never given to us. In my opinion, a Block- or Zellenleiter could not, even on his own initiative, conceive of spying on the population or on individuals for the purpose of denunciation, for otherwise his entire position in the Block or in the Zelle, a position which presupposed and necessitated a relationship of confidence with the people, would have been rendered impossible immediately.

DR. SERVATIUS: In the *Organization Book of the NSDAP* it states that people spreading detrimental rumors were to be reported to the Ortsgruppe by the Blockleiter so that the competent authorities could be advised. Did you not act according to this book?

HIRT: The *Organization Book of the NSDAP* was as unknown to me in times gone by as it was unknown to the other Block- and Zellenleiter.

THE PRESIDENT: Dr. Servatius, you realize that the Tribunal has got a very full summary of the evidence which this witness gave to the Commission. In addition to the actual evidence, we have got a summary, which consists of 6 pages of folio, and therefore I think it would be convenient to the Tribunal if you could summarize the evidence as much as possible and take it as shortly as you can, as we have the opportunity of seeing the witness and forming our opinion on the credence to be attached to him.

DR. SERVATIUS: Mr. President, my examination will not take very long.

[Turning to the witness.] Did not the Blockleiter keep files in which they recorded the names of those who were politically suspicious?

HIRT: Only a general card registration file was kept of the inhabitants. A special file for people who might be particularly suspicious, politically, is absolutely unknown to me.

DR. SERVATIUS: Did the Blockleiter have police authority?

HIRT: In no wise.

DR. SERVATIUS: For what reasons did the Political Leaders in general join the Party?

HIRT: Well, at the assumption of power by the Party, there was widespread unemployment in Germany, which could be alleviated only in the course of years, but there were also other social needs, and most of the Block- and Zellenleiter with whom I had contact hoped by entering the Party to receive general support in their efforts to eliminate the German emergency.

DR. SERVATIUS: Now, Witness, wars actually were fought, which according to the Prosecution were wars of aggression. The persecution of the Jews is well known. The trade unions were dissolved. Did not the Block- and Zellenleiter have to recognize these incidents as aims of the Party which were set down in the Party program and in the book *Mein Kampf*?

HIRT: I consider that possible. I personally was more critical of all of these things than many others, but the Party program, as well as the accompanying propaganda which was very strong in the press and over the radio, could not disclose to the German people the real aims and intentions Hitler had at the time he took over the power.

DR. SERVATIUS: Were not the things which are set up today as crimes under the Indictment so well and widely known that each Block- and Zellenleiter would of necessity have to know them?

HIRT: The Block- and Zellenleiter as such did not learn any more than any other simple German or member of the Party could gather from the Führer's speeches, from newspaper articles and publications, and from radio reports.

DR. SERVATIUS: You saw many mistakes and you rejected them. You saw the practices followed by the Party. Why did you remain in office?

HIRT: At that time I personally, as an official, could neither refuse to take over the office nor could I seriously consider resigning from my office later on. As enough examples have already shown, that would have meant for me the loss of my position, the end of my livelihood, and possibly something worse.

DR. SERVATIUS: I have no further question to put to this witness.

THE PRESIDENT: The Tribunal will adjourn.

[The Tribunal recessed until 1400 hours.]

Afternoon Session

THE PRESIDENT: In accordance with the Tribunal's orders on procedure for the organizations entered on the 25th of July, several applications have been made to the Tribunal for an extension of time for the closing speeches by counsel for the organizations. These applications are made, the Tribunal thinks, under some misapprehension as to the meaning of the order of July 25. It is not intended that the closing speeches should deal at length with the documents. When offering the documents, or during the examination of witnesses, or at the conclusion of the evidence, as counsel prefers, he may make brief references to the documents to explain their nature and the points to which they refer. All the material matters will thus be before the Tribunal. This will enable the closing speeches to be devoted to summarizing the evidence and commenting on any matters of law, and one-half day will be ample for that purpose. That is all.

DR. SERVATIUS: Mr. President, I have a question on the ruling given. I submitted my documents and written evidence to the Court without comment, according to the ruling as I understood it. May I then comment on this written evidence at the end of the total admission of evidence, and ask the Court to look through the documents? It was not possible then, as they were not available.

THE PRESIDENT: Certainly, Dr. Servatius.

DR. SERVATIUS: Thank you.

LT. COL. GRIFFITH-JONES: Witness, I want to ask you one or two questions on general matters. Am I right in saying that in towns and villages in many parts of the country there were glass cases exhibiting *Der Stürmer*?

HIRT: In many places there were so-called "*Stürmer* cases"; that is right.

LT. COL. GRIFFITH-JONES: Were they set up by the Party?

HIRT: I knew nothing whatever about that.

LT. COL. GRIFFITH-JONES: You cannot tell me, can you, whether those *Stürmer* cases were set up on the instructions of either the Kreis- or Ortsgruppenleiter?

HIRT: At times, I personally had the impression that the local SA was responsible for setting up the *Stürmer* cases.

LT. COL. GRIFFITH-JONES: There were also, were there not, both in towns—particularly holiday resorts—and all over the countryside, notices saying that Jews were undesirable (Juden unerwünscht)?

HIRT: I have seen such notices in various parts of Germany.

LT. COL. GRIFFITH-JONES: Do you know whether they were set up on the instructions and by the authority of the local political leader?

HIRT: I do not know.

LT. COL. GRIFFITH-JONES: Very well.

My Lord, I have one new document, which was put to this witness before a commission. Perhaps I might draw the Tribunal's attention to it now and to the relevant parts. It is Document D-901 (a), which will become Exhibit GB-546.

Your Lordship will see that that is a circular issued in the Gau Cologne-Aachen on the 31st of January 1941, and it contains instructions to all Kreis- and Ortsgruppenorganisationsleiter regarding the installing and keeping of card indexes of households.

Under Paragraph 1, "The sense and purpose of card-indexing households," it is stated that the purpose is as a basis for statistical inquiries and, combined with the entries on the back of the card index of households, for the political judgment of the members of a household.

Then a few lines farther on, the information contained on them must enable the Ortsgruppenleiter to give at any moment a judgment of the household member concerned which is sufficient in all respects.

Then, My Lord, under Paragraph 5:

> "The Blockleiter must be in possession of lists which contain the same printed text as the household card index, and which are to be provided with the necessary entries by the Blockleiter (family status, Party membership, membership of an organization, affiliated body, *et cetera).*"

On the next page, the second paragraph in Number 10 sets out the information which is to be obtained. Halfway down that paragraph it says:

> "It is thus to be recorded how long the *Völkischer Beobachter* has been subscribed to, whether the family already possessed a swastika flag before the 1935 flag law, and what wireless apparatus is available in the household . . . It is easy to obtain this data from a conversation of the Blockleiter with the members concerned."

The next paragraph deals with the political judgment of the inhabitants. I quote the last three lines:

> "The political judgment of every compatriot is to be found by the Ortsgruppenorganisationsleiter in co-operation with the competent Block- and Zellenleiter, as well as in agreement with the Ortsgruppenleiter."

Then in the last paragraph, Number 14 on the next page, it describes how this information can be obtained:

"It is prohibited on principle to give compatriots and Party members lists or index cards to fill in themselves. Owing to their frequent visits to the individual households, the Blockleiter have sufficient opportunity to obtain the required data for the index by means of conversations with compatriots. The Blockleiter must make sure of the accuracy of the data supplied to him by looking through membership papers and such like. The Blockleiter is responsible for the accuracy of the data supplied to the Ortsgruppenorganisationsleiter."

Your Honor, I have no further documents and no questions.

My Lord, General Raginsky has three documents which he desires to put in.

STATE COUNSELLOR OF JUSTICE M. Y. RAGINSKY (Assistant Prosecutor for the U.S.S.R.): Mr. President, with your permission I would like to submit three documents which characterize the role of Kreisleiter and Blockleiter in the participation of such crimes as the Germanization of occupied territories and their populations.

The first document I am submitting is Document USSR-143. This document was discovered in the archives of the Kreisführer of the town of Pettau in Yugoslavia in May 1945. I would ask the Tribunal to pay attention to the fact that the document begins with the following phrase: "... with the instruction to inform at once all the Blockführer, down to the last one, at the next roll call."

The document is signed by the Kreisführer. Point Number 1 of this document states as follows:

"In the course of my tours of inspection through the various Ortsgruppen I ascertained that there are still some Slovenian inscriptions on the houses principally signs of insurance companies ... and so on. I request the Blockführer once more to see to it immediately that all these Slovenian inscriptions, billboards, posters, *et cetera* be removed.... I, therefore, charge the Ortsgruppenführer to see to it, that through personal conversation with the responsible priests, the Slovenian inscriptions are also removed immediately, without exception, from all church images (ikons), chapels, and churches."

Point 3 of this document is as follows:

"The Ortsgruppenführer will, as before, be personally responsible to me to see that every officeholder down to the last Blockführer learns to speak and to write German."

The next document, which I am presenting under Number USSR-449, is an excerpt from the speech of Reich Minister of the

Interior Dr. Frick, dated 16 December 1941, in connection with the appointment of Gauleiter Dr. Friedrich Rainer. This document was seized in the archives of the Kreisleiter in Maribor by the Yugoslavian Army in May 1945. In the speech it is said:

"Dear Party Comrade Rainer:

"The Führer has appointed you to be a Gauleiter. . . ."

I do not wish to read the whole excerpt, it is translated.

THE PRESIDENT: General Raginsky, have you got the original of this document?

MR. COUNSELLOR RAGINSKY: I beg your pardon, Mr. President, I did not get your remark.

THE PRESIDENT: It is all right. We have the original of the document now. Now can you explain to us what the document is; I mean, how it is certified, how it is proved?

MR. COUNSELLOR RAGINSKY: This document has been authenticated by the Yugoslav Government Commission for the investigation of crimes committed by the German occupants in Yugoslavia. The original of this document is to be found in the archives of this commission. The copy which I am submitting to this Tribunal has been authenticated by the president of the government commission, Dr. Nedelkovitsch:

> "Your duty, Party Comrade Rainer, consists in seeing that this entire district is again made totally German. . . . The German language must be given more and more priority in public life. It is the only authorized language and the only one which may be used officially . . . the youth in the schools must immediately be taught in German. Instruction must be given as soon as possible exclusively in German. . . .
>
> "When not only the outward appearances, such as official signs, official language and inscriptions are German, but when also all the young people will speak German, and when in the family circle the Slovene language is replaced by German—only then will we be able to speak of the Germanization of the Upper Kranj."

Finally, the last document, which I am submitting under Number USSR-191. This document is an excerpt from the minutes of a staff conference of the Gauleiter of Lower Styria. The original of this document was seized by units of the Yugoslav Army in the archives of the Gauleiter of the town of Maribor in May 1945.

On the first page of this excerpt, Mr. President, we can see that on 12 November 1941, the Gauleiter held a conference with the Security Service. Members of the SS were present at this conference, and:

"SS Standartenführer Lurcker states that approximately 2,000 persons had been removed to Serbia and 400 persons had been put into concentration camps... As a reprisal for incidents which have recently occurred, some 30 other persons will be shot."

In the last paragraph on this page, an excerpt from the minutes of the conference of 5 January 1942, it also states:

"On 27 December 1941, as a reprisal for an attack, 40 persons were shot."

And further, in the report of a speech by Dr. Carstanjen, Deputy Gauleiter of Styria, it states:

"The resettlement into the old Reich is practically completed. Only about 10,000 persons remain to be resettled."

I do not wish to quote the following pages, which contain excerpts of a similar kind.

DR. SERVATIUS: Witness, you were not able to comment on the documents. I shall ask you a few brief questions about them. The first letter submitted was Document D-901(a). It was a circular letter issued by the Gau Cologne-Aachen dated January 1941. It mentions a card index of households. Do you know whether such card indexes of households similar to those mentioned here were kept in your district?

HIRT: I know only of card indexes for inhabitants on which all inhabitants were listed according to their name, family status, birth, profession, and membership in the Party or its branches. No other essential questions were put on these cards, nor were they answered.

DR. SERVATIUS: Can this order here be considered an organizational exaggeration?

HIRT: Up to now, I have really had no knowledge of this order. Had it been universal for all local districts in Germany, it would have had to be promulgated and carried out by us, too. Since such a far-reaching order was issued in the Gau of Cologne-Aachen, it was certainly only the local Gauleiter and the executive officer of the Gau who was responsible for that, and it was certainly an exaggerated interpretation of the situation on their part.

DR. SERVATIUS: The next letter was a letter from the Styrian Heimatbund of Pettau dated 30 April 1942. It was addressed to all Ortsgruppenführer and came from the Kreisführer. It concerns the removal of Yugoslavian signs. Did you ever obtain any information at all about such matters abroad?

HIRT: No, they were completely unknown to me.

DR. SERVATIUS: Do you know that up to 1918 Pettau was an old German town, and that it only became part of Yugoslavia after 1918?

HIRT: I did not quite understand the name of the town.

DR. SERVATIUS: Pettau. Then you cannot give an answer?

HIRT: No.

DR. SERVATIUS: Then there has been submitted a speech by Dr. Frick to Reichsstatthalter Rainer. It refers to conditions in the new border Gau. Were you informed about these conditions which existed in the border Gau?

HIRT: No, I had no knowledge of them.

DR. SERVATIUS: The last document contained notes on staff conferences of Gauleiter Uiberreither, which also refer to the border Gau and the adjoining Yugoslavia. Can you also not testify about these things?

HIRT: Nothing whatsoever.

DR. SERVATIUS: I have no more questions to put to this witness.

THE PRESIDENT: Did you have anything to do with the deportation of foreign labor?

HIRT: No.

THE PRESIDENT: Who did?

HIRT: I do not know.

THE PRESIDENT: Did you not know anybody who was employing slave labor?

HIRT: I did not understand the question.

THE PRESIDENT: There was a great amount of foreign labor used in Germany, was there not?

HIRT: There were many foreign workers in Germany who were employed in factories.

THE PRESIDENT: And also in private houses?

HIRT: I know that foreign women were also employed in private homes as maids.

THE PRESIDENT: What I asked you was, did you have anything to do with the placing of that foreign labor either in factories, or in offices, or in workshops, or in private homes?

HIRT: I had nothing to do with it in any respect.

THE PRESIDENT: Do you know what officials did have to do with the placing of such labor?

HIRT: I do not know that. I was certainly never interested in it.

THE PRESIDENT: The witness can retire.

DR. SERVATIUS: With the permission of the Court I will call the last witness, Hupfauer. He is for the technical offices, especially the German Labor Front.

[The witness Hupfauer took the stand.]

THE PRESIDENT: Will you state your full name, please?

THEO HUPFAUER (Witness): Dr. Theo Hupfauer.

THE PRESIDENT: Will you repeat this oath after me: I swear by God—the Almighty and Omniscient—that I will tell the pure truth—and will withhold and add nothing.

[The witness repeated the oath.]

THE PRESIDENT: You may sit down.

DR. SERVATIUS: Witness, when were you born?

HUPFAUER: On 17 July 1906.

DR. SERVATIUS: You were for 8 years, from 1936 to 1944, a Political Leader in the supreme office of the DAF, the German Labor Front, in the central bureau with Dr. Ley, and after that, up to 1945 you were the liaison official between the Ministry for Armament and War Production of Minister Speer and the German Labor Front, is that correct?

HUPFAUER: Up to 1944 I was office chief in the central bureau of the German Labor Front.

DR. SERVATIUS: And as such a Political Leader?

HUPFAUER: As such a Political Leader. After my appointment I was from 1942 liaison official of the German Labor Front to the Ministry for Armament and War Production and from the end of 1944, I was chief of the central bureau in the Ministry for Armament and War Production.

DR. SERVATIUS: Was the German Labor Front an organization affiliated with the Party, while the political direction originated from the Party itself?

HUPFAUER: The German Labor Front was an organization with organizational, financial, and personnel independence. It was affiliated to the Party. The tasks of the political direction were, however, matters for the Party itself.

DR. SERVATIUS: Did the leaders of the DAF, who were political leaders, have political tasks and were they Political Leaders for that reason?

HUPFAUER: The leaders of the DAF had purely social-political tasks. Only those leaders of the DAF were Political Leaders who were appointed as such.

DR. SERVATIUS: The German Labor Front was represented in the Gau, Kreis, and local districts by so-called Obmänner. Were these Obmänner Political Leaders with the Party staffs?

HUPFAUER: These Obmänner were Political Leaders only insofar as they were appointed as such.

DR. SERVATIUS: Were there, in the German Labor Front, Political Leaders who were not active in the Party staffs?

HUPFAUER: In the Party staffs only the local Obmänner were active. All other functionaries of the DAF who were Political Leaders had no office in the Party.

DR. SERVATIUS: Was the number of those who had no office, but were nevertheless Political Leaders in the DAF very large?

HUPFAUER: The majority of the functionaries who were Political Leaders held no office in the Party.

DR. SERVATIUS: Can you estimate approximately how many people there were?

HUPFAUER: I cannot give a figure nor can I give a percentage, but in the offices of which I was in charge, it was by far the majority.

DR. SERVATIUS: What was the occupation and duty of these Political Leaders who were not on the staff?

HUPFAUER: The Political Leaders who were not on the Party staff had the same duties as those who were on the Party staff, that is, social-political and technical tasks.

DR. SERVATIUS: All persons holding office in the DAF, the functionaries, were called Amtswalter, is that correct?

HUPFAUER: Yes.

DR. SERVATIUS: Were all these Amtswalter appointed at the same time Political Leaders?

HUPFAUER: No, only part of the Amtswalter were appointed. For example, it could happen and it did happen that if there were two functionaries who directed equally important offices, one was a Political Leader and the other was not. It also happened that the superior did not have the rank of Political Leader, but his colleague, his subordinate, did.

DR. SERVATIUS: What was the purpose of appointing Political Leaders? Did such officials receive special political tasks and special rights?

HUPFAUER: Special tasks and special rights were not connected with the appointment as Political Leader.

DR. SERVATIUS: What was then the sense of appointing them as such?

HUPFAUER: That was essentially for representative purposes and may be attributed to the wish to show the authority of the Party abroad in the economy and in the State, but it had nothing to do with the office as such.

DR. SERVATIUS: What were the duties of the Political Leaders as Obmänner in the Party staffs?

HUPFAUER: The Obmänner who were Political Leaders in the Party staffs had to advise the Hoheitsträger with regard to their own specialized branch.

DR. SERVATIUS: What was the ratio of the Political Leaders of the DAF to the total number of all Political Leaders? Did they constitute a considerable part?

HUPFAUER: The DAF was a membership organization consisting of about 20 million. The organization, therefore, extended to the Ortsgruppen and even to private business. Thus it had a large number of functionaries and therefore a large number of these functionaries were Political Leaders. This explains the fact that the majority of the Political Leaders most certainly belonged to the DAF.

DR. SERVATIUS: The DAF was a so-called affiliated formation. Are you in a position to testify on the position of the Political Leaders in any other professional or technical organizations?

HUPFAUER: As an Amtsleiter of the DAF, I was, of course, in contact with the functionaries of other organizations. I can, therefore, give information on these organizations in a general way but not in detail.

DR. SERVATIUS: Was the position of the Political Leaders in these professional and technical organizations and in the social organizations regulated in the same way as in the DAF?

HUPFAUER: It was essentially organized in the same way; that is, the local leaders of these formations were also bound up in the Party. They had no duties of political leadership, but as leaders of organizations they had to look after the interests of their members.

DR. SERVATIUS: Were these also Political Leaders within this specialized formation who were not active in the Party agencies, for example, in the NSV?

HUPFAUER: There also were Political Leaders who were not on the Party staff.

DR. SERVATIUS: Can you give us the most important of these specialized formations, professional organizations, and the corresponding offices in the Gau, Kreis, and Ortsgruppenleitung?

HUPFAUER: I can recall the following formations and their corresponding offices: The NSV was the office for peoples' welfare; the Lehrerbund was the office for education; the Beamtenbund was the office for civil servants; the Bund Deutscher Techniker was the office for technology; the Rechtswahrerbund was the legal office.

DR. SERVATIUS: Were these offices which you have added in each case, established in the Party offices, in the Party staffs?

HUPFAUER: These offices are established in the Party staffs, and were generally directed by the local leader of the organization of the affiliated group.

DR. SERVATIUS: What were the tasks of these Political Leaders?

HUPFAUER: The tasks of these Political Leaders were also specialized tasks and not political leadership tasks. It was their duty to look after the interests of their members.

DR. SERVATIUS: What was the numerical relationship of these Political Leaders of the specialized groups, those who sat on the Party staff as heads of these offices, and including those who were in the associations? Was that also a large number?

HUPFAUER: The number depended mainly on the size of the organization.

DR. SERVATIUS: What was probably the largest of those mentioned?

HUPFAUER: Of the organizations which I mentioned, apart from the DAF, the NSV was the largest.

DR. SERVATIUS: Did the German Labor Front destroy the trade unions in 1933?

HUPFAUER: The German Labor Front did not really exist on 2 May 1933. There were functionaries of the National Socialist Factory Cell Organization (Betriebszellen-Organisation), called NSBO, which did not destroy the unions at that time but took over their direction and continued their work.

DR. SERVATIUS: What was the purpose of this measure? Was it possibly to break the resistance of the workers against the Party and thus to remove the internal opposition against the policy of a war of aggression?

HUPFAUER: In May 1933 the first visible effects for the German worker were already felt by the elimination of unemployment for millions. The situation was such that the German workers were

again sure of getting work and bread. Therefore, there can be no talk of any resistance of these workers against the Party. The foundation of the DAF served the following purposes: In the first place, in order to carry out economic reconstruction without interference and to regulate the labor market it was necessary to avoid any trouble through labor struggles which might interfere with social economy, such as strikes and lockouts. It was, therefore, necessary to find an equitable balance between the interests of employees and employers. This was best done in a joint organization of employers and employees.

DR. SERVATIUS: Then the employers' organizations were also dissolved at that time?

HUPFAUER: The employers' organizations were also dissolved with the view of creating a joint organization which would eliminate class struggle, thereby securing the essential prerequisites for the establishment of a really socialistic order.

DR. SERVATIUS: Were not the trade unions taken over by force with the help of the SA, SS, and Police, and were not the union leaders arrested?

HUPFAUER: On 2 May the trade union houses were in reality occupied by the Police, or through measures by the auxiliary Police in which SA and SS men and Stahlhelm men participated. For a short time the union leaders were also arrested. This measure served the purpose, at this moment, of preventing misuse of the available union funds so that the work in these organizations could be carried on.

DR. SERVATIUS: Did the National Socialist Factory Cell Organization (NSBO) then claim for itself the funds which had been taken over and what did it do with them?

HUPFAUER: These union funds were not claimed for the use of the NSBO as this organization financed itself from the dues of its members. The funds of the unions were used in order to carry on the social work, and furthermore they were used to guarantee the long-standing legal claims of the union members; that is, to continue paying invalids, sick, death benefits, and so forth to these union members.

DR. SERVATIUS: Did the unions have large funds available at that time?

HUPFAUER: 1933 was the end of the economic crisis which began in 1930. This economic crisis, of course, also had a detrimental effect on the unions. It is certain that, owing to millions becoming unemployed, the union membership was constantly decreasing and old members of these unions were becoming unemployed in greater numbers, so that a great percentage of them could no longer

pay their dues and a still greater percentage of them had to draw upon the union funds, thus depleting these funds.

DR. SERVATIUS: Did not Dr. Ley himself admit that he used the union funds illegally, and would have run the danger of being imprisoned had the Führer not given legal sanction to the confiscation of the funds?

HUPFAUER: If I recall correctly, Dr. Ley made this statement at a Party rally here in Nuremberg in a report on the achievement of the German Labor Front. He wanted thereby to emphasize that he was interested in having this confiscation of the funds sanctioned legally, a confiscation which had been carried out through political action. In the same speech he speaks of the recorded achievements of the German Labor Front and points out that these funds were used in the interest of the German workers.

DR. SERVATIUS: Was not the purpose of the creation of the German Labor Front that of securing an instrument to fight against the pacific attitude of the workers?

HUPFAUER: The German Labor Front . . .

THE PRESIDENT: Isn't this all contained in the summary?

DR. SERVATIUS: I did not see this summary; I do not know it.

THE PRESIDENT: Well, it extends over six or seven pages.

DR. SERVATIUS: I did not see it.

THE PRESIDENT: No, but at any rate, isn't it all gone into in the evidence the witness gave before the Commission?

DR. SERVATIUS: It is unavoidable that certain things have to be brought up here once more. I have endeavored to summarize them, to give an over-all picture. I am through with the problem of the unions and I come to the subject of the care for foreign workers.

Witness, did not the workers suffer disadvantages through the DAF; did they not protest against the change?

HUPFAUER: In one of the previous questions I already explained that the German Labor Front worked in the interest of its members and of German workers as a whole.

DR. SERVATIUS: That will suffice. Did the DAF receive instructions for the preparation of a war of aggression?

HUPFAUER: I do not know of any written or oral announcement whatsoever which brought the war of aggression to the notice of the DAF.

DR. SERVATIUS: Was the German Labor Front entrusted with care of foreign workers during the war?

HUPFAUER: The German Labor Front, as far as I can recall, voluntarily took over the care of foreign workers as early as 1938.

DR. SERVATIUS: Witness, we are interested here in the question of those foreign workers who came to Germany during the war and particularly those who came under compulsion.

HUPFAUER: The German Labor Front took over the care for all foreign workers during the war.

DR. SERVATIUS: What did the task of the DAF consist of?

HUPFAUER: The task of the DAF consisted in the first place in supporting the factory managers who were legally responsible for the welfare of their workers. Furthermore, through its own special measures it endeavored to lighten the factory manager's task.

DR. SERVATIUS: Did the Labor Front perform this duty?

HUPFAUER: The conditions were particularly difficult during the war, especially in those districts which were the targets of enemy bombers. I may, however, state that the German Labor Front did everything humanly possible to care for these workers.

DR. SERVATIUS: During the severe air raids on the Ruhr in 1943 and 1944 you were sent there especially by the Labor Front in order to carry out the difficult task of taking care of the workers; is that correct?

HUPFAUER: About July 1943 I received an order to go to the Ruhr, in order to see that industrial production was maintained in spite of the air raids and to support the competent local authorities to this end.

DR. SERVATIUS: Do you know about the conditions at Krupp's firm in Essen at this period?

HUPFAUER: I do not know details of factory conditions at Krupp's but I can give information about essential matters since I, myself, visited the Krupp concern two or three times during this period; certainly not the whole plant, but part of it.

DR. SERVATIUS: What was undertaken there on the whole in the field of social welfare?

HUPFAUER: In the main, there were two things that had to be taken care of, that is, food for the workers and lodgings. Since Krupp's, as well as the city of Essen, were subjected to repeated, vigorous attacks by bombers, this concern was working under extraordinarily difficult conditions and it was often necessary for outside institutions to assist the works, that is, through the DAF, the State Economic Office, and similar institutions.

DR. SERVATIUS: A report of Dr. Jäger's was shown you in the Commission, a Document D-288. It mentions abuses in connection

with the treatment of workers. Does this report correspond to the facts as you found them?

HUPFAUER: Personally, of course, I cannot verify to what extent this report of Dr. Jäger's corresponds to the facts. On the basis of my own experience, however, I am under the impression that in some respects matters were described in a somewhat exaggerated form by Dr. Jäger, certainly with the good intention of influencing the administration offices which were to help him. I recall that Dr. Jäger once said that the foreign workers only received 1,000 calories. I would like to say in this connection that in Germany, even during the war, there was never a ration of only 1,000 calories a day, even for normal consumers.

DR. SERVATIUS: Can conditions as described by Dr. Jäger about a few camps be applied to all the camps of the Krupp firm?

HUPFAUER: Dr. Jäger, as far as I recall, describes the conditions in two camps and only describes individual incidents there. Conditions were difficult at Krupp's. In spite of that, these circumstances cannot be applied to all camps. If Dr. Jäger points out that for weeks, rain poured into one particular hut, then I can only say that in the city of Essen rain poured for weeks into thousands of houses, and the people who had any shelter at all were happy there, even if the rain did bother them a little.

DR. SERVATIUS: In the Commission other documents referring to the treatment of the workers at Krupp's were shown to you. Do these give an approximate picture of conditions throughout the Reich?

HUPFAUER: The following may be said about that: In the Reich we had tens of thousands of medium-sized and large concerns, and one cannot under any circumstances just generalize about the conditions found at Essen and consider them as normal with regard to the treatment of foreign workers in Germany.

DR. SERVATIUS: Were security measures taken so that no unqualified elements from the DAF would be entrusted with this welfare work?

HUPFAUER: The German Labor Front on the Reich, Gau, and Kreis level had an office which was the Office for the Allocation of Labor, which dealt exclusively with these problems of foreigners. All orders issued by this office to the administration offices and to the firms constantly reiterate in some form or another the necessity for correct and just treatment of the foreign workers for reasons of humanity as well as for reasons of production. To prevent men who had in any way misused their powers, from coming again into contact with the foreign workers, this Office for the Allocation of Labor issued to the Kreise and Gaue a black

list of camp leaders. This list contained the names of all men who had misused their powers, listing the punishment they had received for doing so, and stressing the fact that they were no longer to be used as camp leaders. Orders were even issued enjoining correct treatment, such as for instance, the prohibition of corporal punishment.

DR. SERVATIUS: Does this not show that such orders were necessary so as not to generalize such abuses?

HUPFAUER: In every organization there are antisocial elements and I do not deny that a functionary of the German Labor Front also sometimes misused his powers. This fact was the reason for such an order. On the other hand, this order is to be considered as a collection of the many decrees which had been issued up to that time. One can also say the following about it: In every civilized state there are laws prohibiting murder, robbery, and so forth, and with threats of punishment.

THE PRESIDENT: Is it necessary to go into all these details?

DR. SERVATIUS: Mr. President, it is only because the witness was repeatedly asked this question by the Commission, that I also wanted to present it to the Court. I do not see what special interest the Prosecution has in this question, but it was repeated many times. I shall now proceed with the next question.

[Turning to the witness.] What measures were taken to safeguard the supervision and execution of the orders concerning social welfare?

HUPFAUER: Besides the office for the Allocation of Labor which I have already mentioned and which was in itself competent, Dr. Ley set up a so-called "camp inspectorate" within the Labor Front, which was under the direction of a DAF functionary outside the jurisdiction of the Office for the Allocation of Labor, whose task was to inspect the camps for foreigners and on his part to remedy any irregularities. This arrangement also served the tactical purpose of preventing other organizations outside of the DAF from meddling in this problem.

DR. SERVATIUS: Were you yourself able to observe anything about inhuman treatment of the workers, or did you receive any reports to that effect? You visited many works all over the country. What was your general impression?

HUPFAUER: These things were not reported to me directly since I was not the competent official chief for these matters. However, as deputy for the production effort of German factories I have been in hundreds of factories and camps, and I must say that apart from individual cases things were in order there.

DR. SERVATIUS: Mr. President, I have no more questions to put to this witness and I have examined all my witnesses.

THE PRESIDENT: The Tribunal will adjourn.

[A recess was taken.]

LT. COL. GRIFFITH-JONES: Witness, I want to ask you one question on the expert staff officers of the Gau-, Kreis-, and Ortsgruppenleiter. Did they all come under their respective Hoheitsträger in matters of discipline?

HUPFAUER: Yes. Every functionary of the German Labor Front came under the orders of his immediate superior, also for discipline. I personally, as office chief of the DAF, was subordinate to the leader of the German Labor Front. He alone could appoint me to a post or remove me from office.

LT. COL. GRIFFITH-JONES: The experts in the Gau staff, for instance the DAF representatives, received their technical instructions from the DAF chiefs. Is that correct?

HUPFAUER: I personally, as well as the other functionaries, received official instructions from the chiefs; for instance mine came from the DAF leader.

LT. COL. GRIFFITH-JONES: I am sure you can answer my question "yes" or "no." The point I am putting is this. Although you received your professional or expert instructions from your DAF superior, you were also subordinate, were you not, to the Hoheitsträger to whose staff you belonged, for all matters of discipline and matters connected with the Party?

HUPFAUER: If one was a Political Leader, of course, he was subject to Party discipline, and he was concerned only with those matters which belonged to his department and to his official sphere.

LT. COL. GRIFFITH-JONES: Now one question about the Political Leaders of the DAF. A Political Leader in the DAF—was he sworn in as a Political Leader in the same way as any other Political Leader was sworn in?

HUPFAUER: A Political Leader of the DAF took his oath to the Führer.

LT. COL. GRIFFITH-JONES: Did he also receive a special certificate or identity card as issued to all other Political Leaders?

HUPFAUER: Yes, he did; he received a certificate on which his rank was recorded.

LT. COL. GRIFFITH-JONES: Now, My Lord, this witness was cross-examined before the Commission, and I would only draw the

Tribunal's attention to one new document which was not put to him, and to two others which affect the DAF particularly. The first one is a new document, D-338, which will be handed up to the Tribunal. My Lord, it is a report of the conditions in the sick bay of one of the Krupp camps. My purpose in putting it in is that it is addressed to the KVD and the Gauamtsleiter, Doctor Heinz. Perhaps I might put one other question to the witness on that.

Witness, is the KVD the association of doctors and physicians?

HUPFAUER: That is a medical association for Germany, that is to say a relief fund. The organization for the doctors and physicians was the Ärztebund (league of doctors and physicians).

LT. COL. GRIFFITH-JONES: It is an association of doctors. Now, is the Gauamtsleiter, Doctor Heinz—would you presume from that document, that he was the expert nonpolitical Leiter of the Gau staff concerned with medical matters?

HUPFAUER: The position that he held is not noted here, but I assume it concerns the Gauamtsleiter for the people's health.

LT. COL. GRIFFITH-JONES: My Lord, the next document the Tribunal will find . . .

THE PRESIDENT: What is the number?

LT. COL. GRIFFITH-JONES: I beg your pardon, Exhibit GB-547. The next document will be found on Page 19 of the Tribunal's document book. My Lord, it is a document which has been put in and I am not certain whether or not it was read to the Tribunal, and I would particularly refer to the penultimate paragraph of the first page which is of considerable importance in connection with the DAF. It is a report by one of the Krupp offices or works managers. It is an original German document and it refers to a discussion which that gentleman had with three members of the DAF in connection with the food which he was trying to get for the starving Russian prisoners of war and Russian laborers.

My Lord, the Tribunal, I know, will stop me if it is familiar with the document, but perhaps I might be allowed to read the one paragraph describing that interview?

THE PRESIDENT: The document has been read.

LT. COL. GRIFFITH-JONES: My Lord, I will no more than draw the attention of the Tribunal to the remarks which were passed by the DAF's representative. My Lord, the other document to which I shall draw the attention of the Tribunal will be found on Pages 9 and 10, Document D-226, Exhibit USA-697. Perhaps I might ask the witness one question on this.

Witness, will you look at this document and the covering letter, which is dated November 10, 1944. Is that letter signed by you?

HUPFAUER: Yes.

LT. COL. GRIFFITH-JONES: On Page 10 you will see that it is a covering letter enclosing a decree on the employment of foreign labor, in which it says:

"It is of particular importance not only that the present good output should be maintained, but also that further working reserves should be freed which, without doubt, can still be obtained from these millions of foreign workers."

It then goes on to say in the Paragraph Number 2:

"All men and women of the NSDAP, its subsidiaries and affiliated bodies in the works will, in accordance with instructions from the Kreisleiter, be warned by their Orts-gruppen leaders and be put under obligation . . ."

My Lord, the document further states that the close co-operation between the Party, the State, and industry with departments of the Secret Police is absolutely necessary for this purpose.

I now read the last three lines of Paragraph 2b:

"Party members, both men and women, and members of Party organizations and affiliated bodies must be expected more than ever before to conduct themselves in an exemplary manner."

At the bottom of the page will be seen:

"The Gau trustee of the DAF will issue detailed instructions in co-operation with the Gau propaganda leader and the leader of the Gau department for social questions."

And then again in the next paragraph it will be seen that there is further evidence of co-operation between the Political Leaders—the Kreisleiter in particular—and the Gestapo.

I have no further questions.

THE PRESIDENT: If there are no further questions, the witness may retire. Dr. Servatius, would you like to make such comments as you think necessary on your documents?

DR. SERVATIUS: Mr. President, I do not have the documents here now and they have not yet been translated, so that they are not yet before the Tribunal. I would suggest first of all that all the witnesses be examined and by that time the documents will be ready and I will then submit them.

THE PRESIDENT: We have the books ourselves.

DR. SERVATIUS: It is not only the document books which have not been submitted, but it is the affidavits which I do not have yet. Nor could I present them now as I have not yet classified them, for I had assumed that I was to do so in my closing speech. That

is the way I understood the decision. I could do it tomorrow morning.

THE PRESIDENT: Then, Dr. Servatius, would it be convenient to comment on some of these documents in these two document books now and leave the affidavits to a later time?

DR. SERVATIUS: I do not have them with me and am also not prepared. It would take up a lot of time and be in disorder. I would prefer to submit them some other time; I would prefer to be given a little more time.

THE PRESIDENT: Then the Tribunal had better go on with the evidence for the next organization.

DR. SERVATIUS: Mr. President, when shall I submit this matter? After the hearing of witnesses for the next organization, or after all witnesses have been heard for all the organizations?

THE PRESIDENT: After the next one, I think.

DR. SERVATIUS: Very well.

THE PRESIDENT: What is the next organization we will deal with?

DR. RUDOLF MERKEL (Counsel for Gestapo): Mr. President, may it please the Tribunal, first of all I should like to submit documentary proof. For the first one, I am submitting my two document books, Document Book Number 1, containing Numbers 1 to 31, and Document Book Number 2, containing Numbers 32 to 62.

Mr. President, shall I give my opinion on the individual documents now or only after the conclusion of the hearing of witnesses?

THE PRESIDENT: When it is convenient to you.

DR. MERKEL: I should prefer to do so after the hearing of witnesses.

THE PRESIDENT: Very well.

DR. MERKEL: First of all, I would like to submit a list of 13 witnesses who have been heard before the Commission. Furthermore, I should like to submit a German copy of these 13 records and would ask you first of all to accept them as evidence. I will then deal with the argumentation myself at the conclusion of the hearing of witnesses. Finally, I should like to submit a list of the names and a summary of the affidavits given in the Commission, numbered 1 to 85, which I should also like to offer in evidence.

The three records of the Commission sessions in which these affidavits were discussed I shall submit later, as soon as I have them.

Further, I have still about 1,500 affidavits to submit which I would like to hand over in one collective affidavit. As the summary

has not yet been completed, I should like to ask permission to submit this after the conclusion of the hearing of witnesses.

With the permission of the Tribunal, I should like to call the witness, Dr. Best.

THE PRESIDENT: Bring on the witness.

[The witness Best took the stand.]

Will you state your full name?

KARL RUDOLF WERNER BEST (Witness): Dr. Karl Rudolf Werner Best.

THE PRESIDENT: Will you repeat this oath after me: I swear by God—the Almighty and Omniscient—that I will speak the pure truth—and will withhold nothing.

[The witness repeated the oath.]

DR. MERKEL: Witness, please describe your professional career.

BEST: I am a jurist and a professional civil servant. I have been a judge since the beginning of 1929, and since 1933 I have been an administrative official, and since 1942 I have been a diplomat.

DR. MERKEL: When and how did you join the Gestapo?

BEST: From 1 January 1935 I was employed as Oberregierungsrat and departmental chief for administration and law in the Gestapo office in Berlin, from 1936 until 1940 in the Department of the Security Police within the Reich Ministry of the Interior. From 1940 and until 1942 I was a military administrative official, and since 1942 Reich Plenipotentiary in Denmark.

DR. MERKEL: Was the Gestapo a union of people?

BEST: No.

DR. MERKEL: What was the Gestapo?

BEST: The Gestapo was a group of State authorities.

DR. MERKEL: However, the Prosecution seems to consider the Gestapo as a union of people joined together voluntarily in order to realize certain aims. What have you to say about it?

BEST: An organization has members. The officials of the Secret State Police were officials employed by the State, and they occupied a public position. An organization sets its own aims. The officials of the Secret State Police received their orders from the State and from the State leaders.

DR. MERKEL: Did the Gestapo belong in any way to the NSDAP or to the National Socialist organization?

BEST: No, the officials of the Gestapo were purely and simply State officials.

DR. MERKEL: Was there a uniform Secret State Police set up in January 1933 throughout the territory of the German Reich?

BEST: No. In the individual German states, political police systems were set up which were created by the various state governments concerned.

DR. MERKEL: Were these police authorities set up entirely new?

BEST: No, they were brought about through the regrouping and reorganization of the political police systems which already existed.

DR. MERKEL: How was this done?

BEST: Through the orders or decrees of the state governments concerned.

DR. MERKEL: For what reasons were these new authorities created by the state governments?

BEST: I can state from my own personal experience that in the state of Hesse a state police office was created, as the authority of the police had been shaken by the events that occurred before 1933, and the authority of these officials had to be restored once more through a new kind of political police, especially in relation to the members of the National Socialist movement. I assume that this motive also carried weight in other German states.

DR. MERKEL: Were these new authorities charged with new tasks?

BEST: No. No, they were charged with the same duties as the political police had been given in the past.

DR. MERKEL: What were these duties?

BEST: On the one hand, the prosecution of political crimes, that is to say, for actions which were committed for political reasons or motives in violation of the criminal law, and, on the other hand, the taking of police measures for the prevention of such crimes.

DR. MERKEL: What do you understand by "police preventive measures"?

BEST: Police preventive measures are those which serve to deter groups of perpetrators or individual perpetrators so that they do not undertake the impending criminal act.

DR. MERKEL: When and how did Himmler become the commander of the political police of the German states?

BEST: Between March of 1933 and March of 1934 Himmler gradually came to an agreement with the governments of the various German states regarding his appointment as chief of political police of each individual state in Germany.

DR. MERKEL: Did Himmler's power arise from his police work or from his political work as a whole?

BEST: No, he had never had anything to do with the police, and he never became familiar with police theories or methods.

DR. MERKEL: Were the authorities and the officials of the various political police responsible for Himmler's coming to power?

BEST: No, they were notified of the appointment as a *fait accompli.*

DR. MERKEL: When and how were the political police systems of the various German states formed into a uniform German Secret State Police?

BEST: After Himmler's appointment in 1936 as Chief of the German Police in the Reich Ministry of the Interior, the political police systems of the various German states were formed into a uniform Secret State Police, by means of several orders and decrees issued by the Reich Ministry of the Interior.

DR. MERKEL: Did the NSDAP establish a political police anywhere in the German Reich?

BEST: No, nowhere.

DR. MERKEL: Was there anywhere an establishment or an organization of the Party taken over by the State as a political police system?

BEST: No, nowhere.

DR. MERKEL: Were the political police posts of the German states occupied by Party members in 1933?

BEST: No, those posts were occupied by former police. Only a few officials were newly taken on at that time.

DR. MERKEL: Were the leading officials members of the Party?

BEST: That varied in the various states. There were even in part officials who had formerly held quite different views and belonged to other parties.

DR. MERKEL: Can you give an example of this?

BEST: There are several well-known examples. It is well known that Herr Diels, the chief of the Prussian Secret State Police, had formerly held other political opinions; the closest collaborators of Himmler and Heydrich from Munich, who were then assigned to the office of the Secret State Police in Berlin—such as Müller, who later was head of Amt IV; Huber, Fresch, Beck—they were formerly adherents of the Bavarian People's Party, and even the chief of my small Hessian state police office was a former democrat and Freemason, whom I considered qualified for this post.

DR. MERKEL: Why then did these officials continue in the police service under National Socialist rule?

BEST: For a German official it was a matter of course to keep on serving the State, even though the government changed—as long as he was in a position to do so.

DR. MERKEL: Were these officials removed and later on replaced by National Socialists?

BEST: No, these gentlemen had mostly a very successful career and obtained good posts.

DR. MERKEL: How did the additional recruiting of personnel for the political police take place in the years that followed?

BEST: Officials from the German police agencies were transferred to the offices of the political police. In the course of time new candidates were also enlisted and were trained to become officials according to the general rules which were applicable for the appointment and the training of officials.

DR. MERKEL: Were people taken on from the Party, from the SS, and the SA?

BEST: Only relatively few, as service in these police agencies was not highly paid and therefore was not very much sought after.

DR. MERKEL: Did the officials volunteer to enter the political police?

BEST: The officials were transferred from one office to another.

DR. MERKEL: Did the officials have to comply with these transfers?

BEST: Yes, according to civil service laws they were bound to do so.

DR. MERKEL: What would have been the consequence of a refusal?

BEST: Disciplinary action, with the result that they would have been dismissed from office, with the loss of their acquired rights, for instance, their right to a pension.

DR. MERKEL: Do you know of any such refusal?

BEST: No, I have not heard of any.

DR. MERKEL: Was the political police completely separated from the general administrative set-up of the state?

BEST: No, on all levels there was a close connection with the general interior administration. The chiefs of the state police agencies were at the same time the political experts of the district presidents. The inspectors of the Security Police were personally

responsible to the district presidents or to the ministers of the interior of the states and had to comply with their instructions.

DR. MERKEL: Besides the Gestapo authorities were there still other authorities also carrying out political police duties?

BEST: Yes, the district and local police authorities also carried out political police duties.

DR. MERKEL: In what way?

BEST: The district and local police authorities, that is, the Landräte (the chief magistrates of the district), the gendarmerie, and the municipal police administration carried out these duties, either on the basis of information which they received, or they carried out the orders of the competent political police, that is to say the state police authorities.

DR. MERKEL: What part of the entire political police work did the district and local police agencies carry out?

BEST: As far as the volume is concerned, the district and local police authorities handled the major part of the individual state police cases as the state police offices only sent out their officials for their own information in special cases, above all, in cases of treason and high treason.

DR. MERKEL: Did the district and local police agencies also receive the general decrees issued by the Secret State Police?

BEST: Yes, they received these decrees unless they were excluded in some cases by special request.

DR. MERKEL: From what point of view did the officials of the political police take up certain cases?

BEST: Almost without exception on the basis of reports which were sent in from private persons or other agencies outside the Police.

DR. MERKEL: And to which spheres did this apply?

BEST: These charges applied to all spheres which might have interested the political police. The Police, therefore, were not in a position to investigate these cases and to check whether they actually existed. A special information service was only created where organized groups were suspected of carrying out their activities, such as the illegal Communist Party or in the case of espionage of enemy intelligence. In these cases they tried to track down these groups and to expose them through agents or by similar means.

DR. MERKEL: If the Gestapo did not have its own information services, how did arrests and other measures come about against people who had made subversive political statements or the like?

BEST: It is not true, as it often has been and still is being asserted, that the Gestapo had a net of spies and information agencies which kept track of the entire people. With the few officials who were always busy, anything like that could not be carried out. Such individual charges about inopportune political remarks came to the Police from outside, and were not sought for, for 90 percent of these cases were not worth dealing with.

DR. MERKEL: Please speak a little slower. Was there a special class of Gestapo officials which was completely different from the other classes of officials?

BEST: No. The officials of the Gestapo belonged to the same categories as the corresponding officials of other police authorities.

DR. MERKEL: What categories of officials were there in the Gestapo?

BEST: First of all, a clear distinction must be made between administrative officials and executive officials.

DR. MERKEL: How did these categories differ?

BEST: They differed in their tasks, in their legal status, and in their training.

DR. MERKEL: To what extent did their legal status differ?

BEST: The administrative officials were subordinate to the Reich civil service laws and to the general civil service law. But for executive officials there was a special law created within the framework of the police civil service law.

DR. MERKEL: How did they differ in training?

BEST: The administrative officials were trained according to their career, as higher, or lower, or medium administrative officials, in keeping with the rules prevailing in the general and internal administrative agencies and in the police administrative agencies, headquarters, directorates, and so forth. The executive officials, on the other hand, were trained only in the so-called Führerschulen of the Security Police and in the agencies of the Gestapo and the Criminal Police.

DR. MERKEL: What tasks did the administrative officials in the Gestapo have?

BEST: The same tasks as may be found in all other administrative agencies, especially police agencies. That is, dealing with personnel records, with internal economic matters concerning the budget, supplies and on the other hand, the handling of legal problems, such as in my department, for instance, German passport laws or the police laws concerning foreigners.

DR. MERKEL: Could the administrative officials look into and control the activities of the executive officials?

BEST: No, only if there was an administrative official appointed to keep a card index of an executive agency. For the rest they were neither concerned with the handling of records nor with any executive measures.

DR. MERKEL: Could they receive knowledge about the executive tasks in any other way?

BEST: No. That was almost impossible, for each official was bound to keep the matters which he dealt with secret, which by the way was a traditional practice of the police. Individual cases being dealt with were not discussed.

DR. MERKEL: Did the administrative officials join the Gestapo voluntarily?

BEST: No. Administrative officials were transferred from other internal administrative agencies or from other police agencies to the Secret State Police.

DR. MERKEL: Did all executive officials of the Gestapo carry out the same activities?

BEST: No. Each one carried out the tasks dealt with by the department to which he had been assigned.

DR. MERKEL: What departments were there?

BEST: Besides the Political Police, strictly speaking, there were the Defense Police and the Border Police; later the defensive part of the military Counterintelligence (Abwehr) and the Customs Frontier Service were incorporated into the Gestapo so that they also became an integral part of it.

DR. MERKEL: Were the special tasks of these various departments assigned to the Gestapo after 1933 for the first time?

BEST: No. Even before 1933 they existed. They were mainly dealt with by the same officials who were later on transferred to the Gestapo, and who previously had been employed by the so-called central police agencies and the offices of the Border Police.

DR. MERKEL: You mentioned the Abwehr Police as a part of the Gestapo. What were the tasks of the Abwehr Police?

BEST: The criminal investigation of treason cases, and all of these cases, without exception, were handed over to the courts for judgment.

DR. MERKEL: And you mentioned also the Border Police. What were their tasks?

BEST: The Border Police were active at the border, checking passports. They controlled the so-called small border traffic. They lent legal assistance to the neighboring foreign police by receiving expelled people, they repressed international traffic of narcotics and carried out searches for criminals and goods at the border.

DR. MERKEL: What were the tasks of the so-called military Abwehr, which was also a part of the Gestapo?

BEST: As I have already said, the defensive part of the military Abwehr, which was assigned to the Gestapo during the war, had the task of gaining information about the enemy intelligence service which was directed against the German Armed Forces and of rendering it harmless through their reconnaissance.

DR. MERKEL: A further part of the Gestapo was the so-called Customs Frontier Service. What were its tasks?

BEST: The Customs Frontier Service, before and after it was assigned to and incorporated into the Gestapo, had the task of patrolling the so-called "green border," that is, all the borders and the crossing points; at the border points where no Border Police was stationed it took over the tasks of the Border Police.

DR. MERKEL: Beyond the executive and the administrative officials, were there other categories of Gestapo members?

BEST: Yes; there were technical officials, and beyond that there was a large number of people, employees who worked in the offices and on the technical staffs.

DR. MERKEL: What percentage of the entire personnel was made up of these employees?

BEST: Depending on the particular year, this percentage varied from 35 to 45 percent.

DR. MERKEL: Did the employees know what tasks were carried out by the executive members?

BEST: As far as the employees, for instance typists, drivers and such, were needed in the course of an executive action, they learned only of this individual action without being told the facts and reasons.

DR. MERKEL: Did the Gestapo pay especially high salaries to its employees?

BEST: No; the salaries were in accordance with the various civil service wage laws and tariffs, and they were so low that it was hard to replace officials and employees.

DR. MERKEL: And where did you get the replacements for the Gestapo?

BEST: According to the law, 90 percent of the candidates for the executive and administrative services had to be taken from regular police candidates who wanted to make police work their life work. Only perhaps 10 percent of the new officials, according to the law, could be taken from other sources, professions, *et cetera.*

DR. MERKEL: Did the candidates from the regular police choose to work for the Gestapo of their own will or not?

BEST: The members of the regular police had their names put down on a list at Potsdam, and without their being asked, they were assigned either to the Secret State Police or to the Criminal Police.

DR. MERKEL: How were the candidates for the executive positions trained?

BEST: These candidates were trained in the so-called Führerschule, which was a school for experts of the Security Police. The training courses, to a large extent, were the same for the Criminal Police and the Gestapo, and they received practical training in the various offices and agencies as well.

DR. MERKEL: Were the officials who were in office indoctrinated and influenced politically?

BEST: No. It may well have been a plan of Himmler in 1939 or so for the Main Office for Race and Settlement of the SS to undertake a unified political training program for all the agencies and departments subordinate to Himmler. As long as I was in office, that is, until 1940, this was not done however.

DR. MERKEL: Were not the officials of the Gestapo to carry through their tasks along political lines?

BEST: No; it would have been most undesirable if a minor executive official, such as a Criminal Police assistant, used political judgment in the course of his duty and took his own political decisions. The executive official was to act only according to the general official directives and the orders of the superiors without interfering in politics himself in any way.

DR. MERKEL: And what is meant by the co-ordination of the Gestapo officials with the SS?

BEST: That meant . . .

THE PRESIDENT: Dr. Merkel, are you summarizing the evidence that has been given before the Commission? I ask that because, you see, we do not want to have it all over again. We have ourselves a written summary. We have the evidence taken before the Commission, and all we want you to do is to bring out the really important points and to call the witnesses before us so that we may see them and form our opinion of their credit and hear them cross-examined insofar as it is necessary. We do not want to go through all the evidence over again that has been given before the Commission.

DR. MERKEL: Yes, indeed, Mr. President; and for that very reason I asked at the outset for only two witnesses. I directed the examination of this witness in such a way that now an essential summary will be given by the witness of those points on which he has already been questioned.

MR. THOMAS J. DODD (Executive Trial Counsel for the United States): Mr. President, I think we have gone into much more detail than we went into before the Commission, into matters that have been inquired about here before the Tribunal. I think counsel may be under some kind of a misunderstanding, because before he started his examination, I asked him about how long he thought he would be. I thought he was being whimsical when he told me between 4½ and 5 hours and he took only 2 hours or so before the Commission. I fear that if he has in mind a 4½ or 5 hour examination when he took only 2 or 2½ hours before the Commission, then he must be under a misunderstanding as to what is in the minds of the Tribunal.

THE PRESIDENT: I hope, Dr. Merkel, I have made it quite clear what we want. You have only got two witnesses. We shall no doubt read the evidence before the Commission of these two witnesses. We want to see the witnesses in order to see what credit is to be attached to their evidence, and we want to give you the opportunity of bringing out any particularly important points. We do not want you to go through the whole thing over again.

DR. MERKEL: Yes, indeed, Mr. President.

[Turning to the witness.] What is meant by the co-ordination of the Gestapo officials with the SS?

BEST: That meant that the official, because he was an official of the Gestapo, was taken over into the SS and received SS rank commensurate with his position.

DR. MERKEL: Was only the Gestapo to be co-ordinated?

BEST: No, the officials of the Criminal Police were to be co-ordinated as well.

DR. MERKEL: When and how did the Reich Security Main Office originate?

BEST: The Reich Security Main Office was first created in September 1939, when the then Chief of the Security Police, Heydrich, in exploiting the situation caused by the war, merged these various departments into one. Up to that time, the Reich Ministry of the Interior and the SS, too, had opposed this unifying move.

DR. MERKEL: Did the concentration camps fall under the jurisdiction of the Gestapo?

BEST: No.

DR. MERKEL: Were there no legal directions in this regard?

BEST: In a Prussian decree dealing with the application of the Police decree of 1936 concerning the Prussian Gestapo there was a sentence to the effect that the Secret State Police office was to

administer the concentration camps. That was one of the aims of the then chief of the Gestapo office, Heydrich. Himmler, however, never carried out this decree, for he wanted the same situation to prevail as before, that is, that the inspector of the concentration camps remained directly subordinate to him.

DR. MERKEL: Did the officials of the Gestapo have to assume that in the concentration camps the health and life of the inmates was being endangered?

BEST: I can speak only for the time up to the war, and I remember that during that time, the officials of the Secret State Police did not think that the life and health of the inmates were being endangered in the concentration camps. The officials were constantly occupied both with the inmates' families, who were looked after by the Secret State Police, and with released internees for whom work was procured, so that they were in a position to obtain an over-all picture of the experiences and life of the internees in the concentration camps.

DR. MERKEL: Did the officials of the Gestapo have to assume that a criminal purpose was aimed at in the concentration camps?

BEST: No; for the Gestapo had no final aim whatever to achieve. They only carried out and fulfilled the orders or regulations and the tasks which were assigned to them from day to day.

DR. MERKEL: Now, did not the Gestapo also carry out actions which were not demanded of it through the general police directives?

BEST: As far as the Gestapo had to carry out actions which were not provided for in their general instructions, they were an instrument for the carrying out of matters which were alien to the Police sphere. I might say they were misused and abused along these lines. As the first case of this type, I remember the arrest of about 20,000 Jews in November 1938. This was a measure which was not necessary from the police point of view, and would never have been carried out by the Secret State Police on their own initiative, but they had received this order from the Government for political reasons.

DR. MERKEL: Did the leadership of the Gestapo participate in the decision to arrest 20,000 Jews?

BEST: No. From my own experience I know that Heydrich, who was then the Chief of the Security Police, was completely surprised by these measures for I was with him when, but a few meters from the hotel where we were staying, a synagogue went up in flames. We did not know anything about it. Thereupon, Heydrich rushed to Himmler, and received orders there which he transmitted to the agency of the State Police.

DR. MERKEL: And how did the so-called third-degree interrogations take place?

BEST: Concerning the third-degree interrogation methods, Heydrich issued a decree in 1937, which I saw only after it had already been issued, for I was not called in on such matters, being an administrative official. Thereupon I questioned him about it.

DR. MERKEL: What reason did Heydrich give for this decree?

BEST: At that time Heydrich gave me the reason that he had received permission from higher authority to issue this decree. This measure was thought to be necessary to prevent conspiracy activity on the part of organizations hostile to the State and thus prevent actions dangerous to the State; but confessions were in no way to be extorted. He called attention to the fact that foreign police agencies widely applied such methods. He emphasized, however, that he had reserved for himself the right of approval on every individual case in the German Reich; thus he considered any abuse quite out of the question.

DR. MERKEL: From 1933 until 1939 did the Gestapo participate in a conspiracy to plan, prepare, and unleash a war of aggression?

BEST: No. I believe I can say that, for if I, as head of a department in the central office, did not know anything about it, then the minor officials could not have known it either.

DR. MERKEL: Was the Gestapo prepared for the eventuality of a war?

BEST: No. On the one hand they were not prepared with regard to material. They especially lacked arms, vehicles, and signal material, *et cetera*, for use in occupied territories. There was, on the other hand, no possibility of calling in police reserves, a possibility which the regular police had. The whole work of organizing the Gestapo was still in its initial state, directives for careers were formulated, office buildings were built and it can, therefore, not be said that the Secret Police or the Security Police were ready for a trial of such dimensions.

DR. MERKEL: For what purpose were the Einsatzkommandos set up?

BEST: The Einsatzkommandos were set up on the basis of an agreement with the High Command of the Armed Forces so that in occupied foreign countries the fighting units would be protected and also so that in the occupied countries the most elementary security measures could be taken.

DR. MERKEL: And to whom were they subordinate?

BEST: During the military operations the Einsatzkommandos were subordinate to the military commanders with whose units they

marched. After the operations were concluded, their subordination varied according to the administrative system in operation in the area. That meant, depending upon whether the office of a Military Commander or of a Reich Commissioner were set up, the Higher SS and Police Leader was subordinate to this administrative chief, and the Einsatzkommandos were subordinate to the Higher SS and Police Leaders.

DR. MERKEL: And how were these task force commands composed?

BEST: When operations began the task force commands were made up of members of the Gestapo, the Security Service, and of the Criminal Police. During the war, however, the personnel had to be supplemented in great numbers partly by members of the regular police, partly by emergency drafting, by members of the Waffen-SS, and by employees from the areas concerned, so that finally the officials of the Secret Police made up at most only 10 percent of the entire force.

DR. MERKEL: Were the Einsatzkommandos constituent parts of the Gestapo?

BEST: No, they belonged neither to the central office nor to the Gestapo offices, but they were Security Police units of a special kind.

DR. MERKEL: From your own experience, do you know about the activities of the Einsatzkommandos?

BEST: Yes, especially in Denmark, I had the opportunity to watch the activities of one of these Einsatzkommandos and through friendly relations I was also informed about conditions in Norway as well.

DR. MERKEL: What do you know of the activities of these Einsatzkommandos in Denmark and Norway, for instance?

BEST: I should especially like to emphasize that the forces which were employed there very frequently objected to the measures they were ordered to carry out by the central agencies, measures which would have led to a severe treatment of the local population. For instance, they were against the application of the "Night and Fog Decree," against the application of the "Bullet Decree," and against the Commando Decree, and they rejected and fought against other measures as well. For instance, the Security Police and I severely protested against the deportation of Danish Jews. In Norway the commander of the Security Police, as he and the Reich Commissioner, Terboven, both told me, fought against the severe measures which Reich Commissioner Terboven ordered time and again, and sometimes with the help of the central office in

Berlin even prevented some of these measures. This finally caused a break between Terboven and the commander of the Security Police.

DR. MERKEL: Did you yourself suggest the deportation of Jews from Denmark as has been mentioned here occasionally?

BEST: No. In frequent reports in the course of 1943, I strongly rejected these measures. On 29 August 1943, when a state of military emergency was proclaimed in Denmark against my will, the deportation of Jews was ordered apparently by Hitler himself and then, once more, I objected. But when the Foreign Office confirmed that the order had definitely gone out, then I demanded that the state of military emergency be maintained as long as the action was going on, for I expected trouble and riots, and this demand of mine that the action was to take place under the state of military emergency was misinterpreted to the effect that I had wanted it. The best proof that I actually sabotaged the action may be gathered from the fact that I informed certain Danish politicians of what was going to take place and when, so that the Jews could flee, and in reality 6,000 Jews were able to flee, while only 450 were arrested. The Security Police also helped me in this matter. The commander of the Security Police could have reported me because he knew about my actions, and this would have cost me my life.

DR. MERKEL: Did the Security Police in the occupied countries participate in the deportation of workers to the Reich?

BEST: Not a single worker left Denmark, or rather, was deported from Denmark to the Reich. As far as I knew, the Security Police did not assist in deportations from other areas either.

DR. MERKEL: Who was responsible for the shooting of hostages in France? Was that the Police, or who was it?

BEST: From my own experience I know that the orders for the shooting of hostages in France came regularly from the Führer's headquarters. The military commander, who had to carry out these decrees until 1942, was himself strongly against these measures, and General Otto von Stülpnagel, because of his conflicts with the Führer's headquarters, had a nervous breakdown and had to leave the service. Also the new Higher SS and Police Leader, Oberg, when taking over office, assured me that he was against these measures, too.

DR. MERKEL: From your own experience and observations, can you tell me who ultimately decreed the harsh treatment in the occupied territories?

BEST: According to my experience, it was Hitler himself who in each case issued the decrees.

DR. MERKEL: And what was the characteristic point in Hitler's decrees?

BEST: I found this to be especially characteristic in Hitler's decrees that in the most astonishing way they dealt with details which normally would not occupy the head of a state and supreme commander of armed forces, and that these decrees, so far as they applied to occupied territories, were always intended to have a deterring effect, containing intimidations and threats for some purpose or another without taking into consideration that the opposite side also showed a fighting spirit which could not so easily be daunted.

DR. MERKEL: And how did he react to objections of his subordinates?

BEST: Mostly by outbursts of rage and by a stiffening of his attitude. On the other hand he retained those in office who had asked to resign.

DR. MERKEL. Does your book, *The German Police,* have an official character?

BEST: No, it is a purely private piece of work.

DR. MERKEL: Does your book deal only with definite and actual facts?

BEST: No. In parts the tendencies which were prevalent at the time it was written were pictured as already having obtained their fulfillment.

DR. MERKEL: Why did you do that?

BEST: Partly because I anticipated the tendencies to be realized in a very short time and partly because the book would otherwise have met with difficulties at the time of its publication.

DR. MERKEL: Does not the following fact confirm that certain arbitrary action was taken by the Security Police, namely, that certain directives said that the Chief of the German Police could order measures beyond his ordinary authority?

BEST: If this was specified in two decrees dealing with the occupation of Austria and the Sudetenland, it meant that the Chief of the German Police would legally have the authority to issue Police decrees in these regions which might deviate from the laws already existing there. This was a transfer of legal authority but no single acts were to be taken either illegally or arbitrarily.

DR. MERKEL: What was the existing police law according to your theory?

BEST: In speaking about police law in my book, I started from the National Socialist conception of the State and from the development of State laws at that time in Germany. When after 1933 the

legislative power was transferred to the Government, it gradually became customary law of the State that the will of the head of the State automatically established law. This principle was recognized as law, for one cannot characterize the rules and regulations governing a great power for years on end as anything else but customary law. On the same basis, the State's police law developed, too. An emergency law issued by the Reich President, on 28 February 1933 removed the barriers of the Weimar Constitution, and thus the Police was given much wider scope. The activities and the authority of the Police were regulated through numerous Führer decrees, orders, directives, and so forth, which, since they were decreed by the highest legislative authority of the State, namely, the head of the State himself, had to be considered as valid police laws.

DR. MERKEL: What would be your judgment concerning the orders to the Gestapo or parts of it, to carry out actions, deportations, and executions?

BEST: I have already said that these were measures quite alien to the Police, as they had nothing to do with the ordinary activities of the Police and were not necessary from the Police point of view. But, if the Police received such orders from the head of the State or in the name of the head of the State, then, of course, according to the prevailing conception each individual official had to take it upon himself as an obligation to carry out the decree.

DR. MERKEL: Did you wish to justify this conception when you wrote in your book . . .

THE PRESIDENT: It is 5 o'clock now. Can you tell the Tribunal how long you think you are going to be with this witness?

DR. MERKEL: I have just two more questions. Perhaps just a few more minutes, Mr. President.

THE PRESIDENT: Very well.

DR. MERKEL: Did you wish to justify this opinion and this attitude when you said in your book that it was not a question of law but a question of fate that the head of State was setting up the proper law?

BEST: No. In that passage of my book, I meant to give a political warning to the State leadership, that is, that this tremendous amount of power to set law arbitrarily—at that time we could not foresee an International Military Tribunal—would be subject to the verdict of fate, and that anyone transgressing against the fundamental human rights of the individual and of nations would be punished by fate. I am sorry to say that I was quite right in my warning.

DR. MERKEL: But if the members of the Gestapo had recognized the orders which they received as criminal, how would you judge their actions then?

BEST: In that case I have to state that they have acted in an express state of emergency, for during the war the entire Police was subject to the military penal code and any official who refused to carry out a decree or order would have been sentenced to death in a court-martial for reason of military insubordination.

DR. MERKEL: I have no further questions.

THE PRESIDENT: The Tribunal will adjourn.

[The Tribunal adjourned until 1 August 1946 at 1000 hours.]

ONE HUNDRED AND NINETY-SECOND DAY

Thursday, 1 August 1946

Morning Session

[The witness Best resumed the stand.]

DR. HANS GAWLIK (Counsel for SD): Mr. President, may I be permitted to put three questions to the witness Best?

THE PRESIDENT: What special reason is there why you want to put questions to him?

DR. GAWLIK: I wanted to put these questions to Dr. Spengler, a witness who has been granted me but who has not arrived, and for that reason I would like to put the three questions to Dr. Best instead.

THE PRESIDENT: Well, for that special reason we will permit you to put the questions, but it is not to be regarded as a general rule.

DR. GAWLIK: *[Turning to the witness.]* I should like to show you a copy of the decree of 11 November 1938. I should like to refer to Page 4 of the German trial brief dealing with the Gestapo and SD. In this decree it says:

"The Security Service of the Reichsführer SS (SD), as information service for Party and State has to fulfill important tasks, particularly for the support of the Security Police."

Now, I should like to ask you, did you participate in the making of this decree?

BEST: Yes.

DR. GAWLIK: Does this decree correctly represent the actual relationship between the Security Police and the SD?

BEST: In those years there were experiments constantly going on with the SD so that the scope of the tasks set up for the SD changed frequently. At the time when the decree mentioned was issued the chief of both the Security Police and the SD, Heydrich, was interested in having the SD gain an insight into the activity of the offices and agencies of the State. The exact wording of this decree was chosen in order to justify that aim sufficiently. In truth the scope of tasks to be put to the SD, whose model was to be the great foreign intelligence service, especially the British Intelligence

Service, developed in such a manner that the SD was not to be an auxiliary branch of the Police but rather a purely political information organ of the State leadership, for the latter's own control of its political activities.

DR. GAWLIK: I have no further questions, Mr. President.

THE PRESIDENT: Does the Prosecution want to cross-examine?

LIEUTENANT COMMANDER WHITNEY R. HARRIS, U.S.N.R. (Assistant Trial Counsel for the United States): Dr. Best, you realize that you are one of two witnesses who have been called, out of possibly hundreds, to represent the Gestapo before this Tribunal, do you not?

BEST: Yes.

LT. COMDR. HARRIS: And you realize that your credibility is very important, do you not?

BEST: Yes.

LT. COMDR. HARRIS: You understand as a jurist of long standing the significance of the oath that you have taken?

BEST: Yes.

LT. COMDR. HARRIS: You stated yesterday, I believe, that your publication, *The German Police,* was a purely private book and had no official status? Is that correct?

BEST: I said that it was my purely private work which originated without any contact with my superiors and without their knowledge. My chiefs—at that time Heydrich and Himmler—only knew of this work when the completed book was put before them.

LT. COMDR. HARRIS: The question is whether this book of yours was or was not an official publication in any respect. Was it or was it not?

BEST: No, it was not an official publication.

LT. COMDR. HARRIS: I ask that the witness be shown the *Ministerialblatt* of 1941, Page 119.

[The document was submitted to the witness.]

Now, you will notice that published in the *Ministerialblatt* for 1941 is a circular of the Reich Ministry of the Interior referring to your book and you will note that it states that:

> "... the book is for offices and officials of Police, State, Party, and municipal administrations. This book represents a reference work which can also serve as an award for worthy officials. It is recommended that this book be acquired especially also by the libraries..."

And then the distribution is to various supreme Reich authorities. You see that there, do you not, Dr. Best.

BEST: Yes, indeed, and I can say only that this recommendation was published some time after the appearance of the book, without, moreover, my having prior knowledge of it; and this recommendation is not to be considered more valuable than any recommendation of other books which had already been published and which subsequently were recognized as good and usable. I should like to emphasize again that before the publication of this book, I had not talked in any way with my superiors, nor with the agency which later published this recommendation.

LT. COMDR. HARRIS: Now I want to invite your attention to your book, Dr. Best, and particularly Page 99 of it.

You testified yesterday concerning the development of the Gestapo from the pre-existing political police. You say in your book as follows; I am now quoting:

> "In order to build up an independent and powerful political police force, the like of which had not hitherto existed in Germany, regular officials of the former police force, on the one hand, and members of the SS, on the other hand, were brought in. With the uncompromising fighting spirit of the SS the new organization took up the struggle against enemies of the State for the safeguarding of the National Socialist leadership and order."

That is the correct statement of how the Gestapo came into being, is it not, Dr. Best?

BEST: To that I should like to say that that part of the men which was newly taken into the SS—into the Political Police forces was very small at first. I said yesterday that a certain number of employees were newly engaged. Then later, from among the candidates who applied for the regular career of the Secret State Police further members of the SS flocked in, so that the picture given in my book is absolutely correct, but the ratio in figures is not mentioned. I can say again today that the number of the regular officials—those old officials previously taken over as well as the candidates from the protection police—was much higher than the number taken in from the SS.

LT. COMDR. HARRIS: All right. You said yesterday that you opposed the use of torture by the Gestapo in connection with interrogations and that you called Heydrich to account about that matter, did you not?

BEST: Yes, indeed.

LT. COMDR. HARRIS: And you called Heydrich to account, as your superior?

BEST: Yes.

LT. COMDR. HARRIS: But you did not prohibit Heydrich from continuing his practice of using torture in interrogations, did you?

BEST: I was not in a position to prevent my superior from carrying out measures he had ordered or planned. In addition to that, I had nothing to do with the executive side in the Secret State Police, for I was an administrative official and consequently was not competent if Heydrich decreed measures like that or approved of them. I can only say that in the small branch of the counter-intelligence which I headed as a commissioner for some time, I prevented the use of this method.

LT. COMDR. HARRIS: I want to pass briefly to your experiences in Denmark, Dr. Best, and by way of preliminary I wish to refresh your memory as to the testimony which you gave before the Commission on the 8th day of July 1946:

"Question: Have you met Naujocks?

"Answer: Naujocks was in Copenhagen once.

"Question: And what was his task in Denmark?

"Answer: He did not give me any details. I know only that he asked me to provide a contact for him with the research office in Copenhagen.

"Question: Anyway, you have no idea why Naujocks was in Copenhagen, do you?

"Answer: I imagine that he was in Denmark on matters pertaining to intelligence duties.

"Question: And if he were to state and even to testify that he discussed the matter with you, you would say it was only a lie?

"Answer: I would say that I could not recall it and that in my memory he remains an intelligence service man."

Now, you were asked those questions and you gave those answers before the Commission, did you not, Dr. Best?

BEST: Yes.

LT. COMDR. HARRIS: Yes. And when you gave those answers you knew that you were telling a deliberate falsehood under oath, did you not, Dr. Best?

Now, you can answer that question "yes" or "no," and then explain it if you like.

BEST: In the meantime, a report from Danish officials . . .

THE PRESIDENT: One minute. Wait. Answer the question. Do you or do you not know whether you were telling the truth then?

BEST: My statement was not correct. In the meantime I have been shown Naujocks' report and thereupon I was able to recollect

exactly that in a general way he had told me about his mission. Even today I do not recall details, however.

LT. COMDR. HARRIS: Well, now, just so that you will remember that interrogation that you had with Dr. Kalki of the Danish Delegation 2 days later, on 10 July 1946, I am going to ask that you be shown the written statement which you corrected in your own handwriting and signed with your own signature.

[The document was submitted to the witness.]

Now, I invite your attention to the first paragraph, Dr. Best, in which you state as follows:

> "Now that I know that Naujocks has testified as to his connection with the terrorist activities in Denmark, I am ready to testify further on this subject. If I did not testify about this earlier, it was because I did not know whether Naujocks had been captured and had confessed regarding these things. It was contrary to my feelings to drag him into this thing before the facts were known to me."

You gave that statement, did you not, Dr. Best, and that is your signature on there?

BEST: Yes.

LT. COMDR. HARRIS: Now, Dr. Best, you know very well when Naujocks came to you in January of 1944 that there was planned to be carried out by the Gestapo terroristic measures against the people of Denmark, because you attended the conference at Hitler's headquarters on 30 December 1943 at which that plan was worked out, didn't you?

BEST: Yes.

LT. COMDR. HARRIS: At that conference there were present, in addition to yourself, Pancke, the Higher SS and Police Leader for Denmark; General Von Hannecken, the Military Governor for Denmark; and Hitler, Himmler, the Defendant Kaltenbrunner, the Defendant Keitel, the Defendant Jodl, and Schmundt. You reported these names in your own diary, didn't you?

BEST: Yes.

LT. COMDR. HARRIS: And you knew that at that meeting it was agreed that in order to counteract murders and sabotage against German interests in Denmark, that the Gestapo was to go up to Denmark and to carry out ruthless murders and to blow up homes and buildings as a countermeasure, don't you?

BEST: It is not correct that an agreement was reached, but rather, that Hitler gave orders in spite of my opposition and also Pancke's to these plans.

LT. COMDR. HARRIS: Yes. Hitler gave the order to Himmler, who gave it to Kaltenbrunner, who gave it to Müller, who sent the Gestapo into action, and you know that those murders and that this willful destruction of property was carried out in Denmark as a result thereof, don't you?

BEST: This general fact is known to me, yes.

LT. COMDR. HARRIS: Yes, and you knew that these were carried out, because you protested about some of them. For example, you remember when these thugs blew up a streetcar in Odense, killing and injuring the passengers in it, don't you?

BEST: In the period following, again and again for various reasons I protested against the use of this method; reports or telegrams to this effect . . .

THE PRESIDENT: You haven't answered the question. The question was, did you know that the streetcar had been blown up.

BEST: I do not accurately recall the individual cases, and therefore I do not recall for what special reason I made my protests. But I do know that I protested in very many cases.

LT. COMDR. HARRIS: Now, Dr. Best, I know that you have a very short memory, but I would have thought that you could have remembered the events that you recited on 10 July 1946. If you will look at your statement there that you gave to Dr. Kalki, you will find the following: "I used on such an occasion the blowing up of a streetcar in Odense, for instance." Don't you see that there, Dr. Best? The statement that you gave on the 10th . . .

BEST: Where do I find that, please?

LT. COMDR. HARRIS: You will find that on—about the middle of the document.

BEST: Wait just a minute. That is a wrong translation. I said the blowing up of a "Strassenzug" in Odense. That meant that along this street several houses were blown up simultaneously. It was not a car, but a row of houses.

LT. COMDR. HARRIS: Now, Dr. Best, you also remember the murder of four doctors in Odense, against which you protested because these doctors had been pointed out to you by National Socialist circles as being German sympathizers, don't you?

BEST: Yes, and apart from that, that was not the only reason. I called attention to the growing senselessness of these measures, for I had found out that some of these physicians were friendly to Germany.

LT. COMDR. HARRIS: Yes, and that was a terrible thing for the Gestapo to murder German sympathizers in Denmark, wasn't it?

There were so few. Now, to whom did you make your protests against this murderous activity of the Gestapo?

BEST: My protest always went to the Foreign Office, which was the Ministry superior to me.

LT. COMDR. HARRIS: Yes, your protests went to the Defendant Ribbentrop, didn't they?

THE PRESIDENT: Commander Harris, have we got a reference to any document which records the meeting of 30 December 1943?

LT. COMDR. HARRIS: Yes, Sir. This is in evidence through the official government report of the Danish Delegation, Exhibit RF-901.

THE PRESIDENT: Thank you.

LT. COMDR. HARRIS: Now yesterday, Dr. Best, you testified that you learned that the Einsatzkommando of the Security Police and SD in Denmark was opposed to the Kugelerlass, didn't you?

BEST: Yes.

LT. COMDR. HARRIS: Who—who in Denmark told you that this Einsatzkommando was opposed to the Kugelerlass?

BEST: I was told that by the head of the executive, Dr. Hoffmann.

LT. COMDR. HARRIS: Yes, Dr. Hoffmann. He was the head of the Gestapo in Denmark, wasn't he?

BEST: Of the Gestapo branch with the commander of the Security Police.

LT. COMDR. HARRIS: Yes, and when did Dr. Hoffmann tell you that? Approximately?

BEST: I cannot remember exactly now whether through my being together with Dr. Hoffmann I was reminded of these facts or whether the individual measures which were turned down at that time were ever reported to me. It may be that this is a new piece of information for me, which confirms that this decree was never put into effect. No case of this kind ever occurred.

LT. COMDR. HARRIS: Now, Dr. Best, you just got through saying in your last answer that Dr. Hoffmann told you that the Gestapo was opposed to the Kugelerlass in Denmark and that he told you this in Denmark. Now, is that true or isn't it true?

BEST: I did not say when and where I learned of it. I said only that on the initiative of the Police the decree was not put into effect. I did not say when and where I was told this.

LT. COMDR. HARRIS: What was the Kugelerlass?

BEST: Today I know, for I have read files and transcripts, that these were measures, I believe, dealing with prisoners of war who had escaped.

LT. COMDR. HARRIS: Now—when you were asked about your knowledge of the Kugelerlass before the Commission, you didn't say anything about having had a conversation with Dr. Hoffmann about it, did you?

BEST: According to my memory, I was asked only whether I had known the Kugelerlass already during my term of office. I did not see the decree at that time and I believe I have mentioned already that I read it only here.

LT. COMDR. HARRIS: If the Tribunal please, I have two documents which I would like to offer into evidence at this time. These documents have come to our attention and have been made available only in the last 2 days. Consequently, it has been impossible for us to present them to anyone speaking for the Gestapo before the Commission, and I think that this witness can assist in identifying some of the names. And I would like to ask the permission of the Tribunal merely to show these documents to the witness. They are quite long, and I will then try to summarize them as briefly as possible and develop what can be developed out of them in the shortest possible time, perhaps 15 minutes for both documents, Sir.

THE PRESIDENT: Yes, go on, Commander Harris.

LT. COMDR. HARRIS: Then at this time I offer into evidence Document Number R-178, which becomes Exhibit USA-910, and I ask that the document be shown to the witness.

This document was captured by a combined British-American documents exploitation team and sent to the Prosecution from the Air Documents Research Center in London. It contains detailed correspondence concerning a complaint about a certain Major Meinel against the Gestapo officers in Munich, Regensburg, Nuremberg, and Fürth over the screening out and murdering of Russian prisoners of war. I ask that the witness turn to Document F, which is Page 7 of the English translation.

You will note, Witness, that this is a report from the Gestapo office in Munich, in which are listed 18 camps screened by the Gestapo, showing a total of 3,088 Soviet prisoners of war screened, of which 410 are screened out as intolerable. You will note, following Page 8 of the English translation, that the 410 Russians sorted out belong to the following categories: officials and officers, Jews, members of intelligentsia, fanatical Communists, agitators and others, runaways, incurably sick. You will note on Page 9 of the English translation that of the 410 Russians so sorted out, 301 had been executed at the concentration camp at Dachau at the date of this report. On Page 10 of the English translation, Witness, you will find the following: Namely, that these 410 Russians screened out at Munich represent a percentage of 13 percent, whereas the Gestapo

offices at Nuremberg, Fürth, and Regensburg screened out an average of 15 to 17 percent. This report, which is signed by Schermer, states, quoting right at that same place:

"The complaints of the High Command of the Armed Forces that the screening of the Russians had been carried out in a superficial manner must be most emphatically refuted."

Now, Witness, do you know Schermer?

BEST: No; the name is . . .

LT. COMDR. HARRIS: All right. Then I want you to turn to Document G. This is a report from the Gestapo office in Munich complaining about the attitude of Major Meinel; and on Page 13 of the English translation, you will find a statement that Meinel was thought to have complained to the High Command of the Armed Forces that the Russians had been superficially screened out.

Now, you will note that a report was made against Major Meinel by the SD in which Meinel was reproached with having shown, to some extent, aversion against the National Socialist creed. For example, he mentioned God but not the Führer in an order of the day.

THE PRESIDENT: Where does that come from?

LT. COMDR. HARRIS: Sir, you will find that on Page 13 of the English translation, in the middle of the page.

[Turning to the witness.] That was the mark of a bad National Socialist, was it not, Dr. Best—one who would put God before Hitler?

BEST: I do not know which question you want me to answer. With regard to the entire subject, I should like to emphasize that at the end of May 1940 I left my position in the Security Police Division at the Reich Ministry of the Interior, and therefore I had no knowledge of these things, which transpired in the year 1941.

LT. COMDR. HARRIS: Then turn to Document G, Page 15 of the English translation. You will find this sentence:

"Experience, however, has shown that the Russians can be compelled to work only by the utmost severity and the use of corporal punishment."

Now, pass to Document H, Dr. Best. This appears on Page 17 of the English translation, this statement:

"Furthermore, I pointed out to Major Meinel that the work of the Gestapo Einsatzkommandos was done with the consent of the High Command of the Armed Forces, and according to rules which had been drafted in collaboration with the High Command of the Armed Forces' Organization of Prisoners of War."

Now, this document is signed by Schimmel. Was Schimmel known to you?

BEST: Schimmel? I cannot find the name Schimmel; but I do recall that there was a Regierungsrat I think, of that name, in the Gestapo.

LT. COMDR. HARRIS: Turn to Document I, then, Page 21 of the English translation. At the end of that, you will find that Meinel, in giving his reply to the accusations made against him, stated:

"When I mentioned that it weighed heavily on the officers' conscience to hand over the Russian prisoners, Regierungsrat Schimmel replied that the hearts of some of the SS men who were charged with executing prisoners were all but breaking."

Now, on Document M, Witness, which is Page 26, you will find a notice that the Reich Commissioner for Defense was informed about these murders, and approved of them. This was for Defense Area VII. Do you know who the Reich Commissioner for Defense was in Defense Area VII who approved these murders?

BEST: A Reich Commissioner? You mean the Reich Defense Commissioner?

LT. COMDR. HARRIS: Yes, the Reich Defense Commissioner. That is what I said.

BEST: I do not recall the Reich Defense Commissioner in Area VII, for during that time I was away from the Reich and held a position outside the Reich boundaries.

LT. COMDR. HARRIS: All right. Let us go on. There are many other cases of the screening of Soviet prisoners of war by the Gestapo for execution; that is, by local Gestapo offices within Germany proper. And I do not wish to take up further time about that. But I wish that you would turn to Document T, Witness, because I want to get evidence of the result of this conflict with Major Meinel. Document T is a teletype from the Gestapo office in Berlin, and it states:

"The prisoners of war who have been screened out . . ."

THE PRESIDENT: What page is that?

LT. COMDR. HARRIS: Page 37, Sir:

"The prisoners of war who have been screened out will be transferred to the Buchenwald Concentration Camp owing to a decision arrived at in a conference with the High Command of the Armed Forces. Will you please inform the Higher SS and Police Leader today about this and also that Meinel is getting a different assignment."

Now, this teletype emanated from the RSHA, Department IV A. That was the Gestapo, was it not, Dr. Best?

BEST: Yes.

LT. COMDR. HARRIS: And you see it was signed by SS Obersturmbannführer Panziger. Now you know who Panziger was, do you not?

BEST: Yes. He was the deputy of Müller.

LT. COMDR. HARRIS: Yes. And he was the head of this Department IV A, which was charged with the handling of opponents and sabotage, assassinations, protective security, and matters of that sort, was he not?

BEST: He was the head of the Department IV A. Just what was dealt with in this department I cannot recall.

LT. COMDR. HARRIS: Well, you can take my word for that.

That appears in Document L-219, for the Tribunal's information, and is already in evidence.

Now, I wish to offer the other documents. There are five documents here which are in a group, Sir, and I will offer them in order:

4050-PS becomes Exhibit USA-911; 4049-PS becomes USA-912; 4052-PS becomes USA-913; 4048-PS becomes USA-914; 4051-PS becomes USA-915.

These documents have just come to us from the Berlin Document Center, and we have not yet been able to obtain the originals. They sent to us only the photostatic copies. We have requested the originals, and they will be here, we are assured, in a matter of days. As soon as they come, we will, with the permission of the Tribunal and the approval of counsel, substitute the originals for these photostatic copies.

[Turning to the witness.] Now, Dr. Best, turning to Document 4050-PS first, you will see that this refers to the same SS Oberführer Panziger. This is apparently a Foreign Office communication in which it says that Panziger reports that various changes have been made in the preparation of the matter discussed, and that he has promised a plan for the execution of our proposed action.

Now, if you will turn to the enclosure, which is Document 4049-PS, you will find just what that plan was. You will see there that the plan was to transfer 75 French generals from Königstein, in the course of which one general by the name of Deboisse was to have a misfortune—namely, his car was to break down—in order to separate him from the others. This was to provide the opportunity to have the general shot in the back while attempting to escape.

You will find that this document goes on to recite all the details of completing this murder, including this interesting statement, that "A decision has as yet to be reached whether or not the burial of the urn should be carried out with military honors"; and it goes

on to say that the question will be looked into once more by the SD. This is the basic report of November 1944.

Now, if you will turn to the next document, 4052 . . .

THE PRESIDENT: Shouldn't you read the last paragraph on Page 2?

LT. COMDR. HARRIS: Yes, Sir, I will read that.

"Protecting Power investigations: It will be assured, through the selection of the persons concerned and in the preparation of all documentary evidence, that in the event of the Protecting Power being desirous of an investigation, the necessary documents are available for the dismissal of a complaint."

Now, turning to the next document, Witness, 4052-PS, you will find again the reference to this infamous SS Oberführer Panziger. You see, Witness, Panziger had been promoted by this time. He states that the preparations in respect to the French generals had reached the stage where a report concerning the proposed procedure would be submitted to the Reichsführer SS during the next few days. And you will find that he again explains this method of murder, and he says that they will carry it out by one of two methods, either by shooting during escape, or, secondly, through poisoning by carbon monoxide gas.

Now, you have noticed, Witness, that at the end of this document it shows that it was prepared for presentation to the Reich Foreign Minister, Herr Von Ribbentrop.

Now, the next document is a particularly interesting one. It is Document 4048-PS. This document is dated December 30, 1944.

THE PRESIDENT: Was Ambassador Ritter the ambassador in Paris?

LT. COMDR. HARRIS: Witness, was Ambassador Ritter the ambassador in Paris?

BEST: I do not remember exactly. That must have been some time before I knew how the diplomatic posts were filled.

THE PRESIDENT: It does not matter.

LT. COMDR. HARRIS: I am informed, Sir, that he was a liaison officer between the Foreign Office and the Army. I am not sure of that, however.

Well, passing to Document 4048-PS, here is where the whole plan is laid out in summary form, and I would like to read this briefly. This is addressed to the Reichsführer SS, and it says:

"The discussions about the matter in question with the chief of Prisoners of War Organization and the Foreign Office have taken place as ordered and have led to the following proposals:

"1) In the course of a transfer of five persons in three cars with army identifications, the escape is staged while the last car suffers a puncture.

"2) Carbon dioxide is released by the driver into the closed back of the car. The apparatus can be installed with the simplest means and can be removed again immediately. After considerable difficulties a suitable vehicle has now become available.

"3) Other possibilities, such as poisoning of food or drink, have been considered but have been discarded again as too unsafe.

"Provisions for the completion of the subsequent work in accordance with plans, such as report, post-mortem examination documentation, and burial, have been made. Convoy leader and drivers are to be supplied by the RSHA and will appear in Army uniform and with pay books delivered to them.

"Concerning the notice for the press, contact has been established with the Geheimrat Wagner of the Foreign Office. Wagner reports that the Reich Foreign Minister wishes to speak with the Reichsführer about this matter. In the opinion of the Reich Foreign Minister, this action must be co-ordinated in every respect.

"In the meantime, it has been learned that the name of the man in question has been mentioned in the course of various long distance calls between Führer's headquarters and the chief of the Prisoners of War Organization; therefore, the chief of the Prisoners of War Organization now proposes the use of another man with the same qualifications. I agree with this and propose that the choice be left to the chief of the Prisoners of War Organization."

Now, by whom is this letter signed, Dr. Best?

BEST: At the foot there are the typewritten words, "Signed, Dr. Kaltenbrunner."

LT. COMDR. HARRIS: "Signed, Dr. Kaltenbrunner." Now, we will pass to the last document, 4051-PS. This is a report on a telephone conversation which carries us to January 12, 1945, and it says that—repeats that:

"A French prisoner-of-war general is going to die an unnatural death by being shot in flight, or by poisoning. Subsequent matters, such as reports, post-mortem examination documentation, and burial, have been taken care of as planned."

It says that—the Reich Foreign Minister's instruction states that the matter is to be discussed with Ambassador Albrecht in order to determine exactly what legal rights the protecting power could claim in this matter in order to make our plans accordingly.

Now, who is Ambassador Albrecht?

BEST: He was the head of the juridical department in the Foreign Office.

LT. COMDR. HARRIS: Now, did you know, Dr. Best, that General Mesny, a Frenchman, was killed on this road at about this time?

BEST: I know nothing about this matter, for at that time I was active in Denmark and heard nothing about matters of this kind.

LT. COMDR. HARRIS: That concludes my cross-examination, if the Tribunal please. However, I have two documents which the French Delegation asks to be submitted. These are both documents signed by or on behalf of this defendant, Dr. Best, and with your permission, Sir, I will offer them in evidence now as on behalf of the French Delegation.

The first is Document F-967. This relates to the deporting of Jews and Communists from France, and states that they have to hold up these deportations for a while because of lack of transportation.

[Turning to the witness.] I ask you to identify your signature on that document if you will, Dr. Best, please?

BEST: Yes.

LT. COMDR. HARRIS: That will become Exhibit USA-916.

The next is Document F-972, which is also a document relating to the fight against Communists in France, and I ask that the witness identify that as coming from him and having been signed on his behalf.

BEST: Yes.

LT. COMDR. HARRIS: That becomes Exhibit USA-917.

If the Tribunal please, I am informed that we have just discovered a new document which is of the utmost importance but which has not yet been in any way processed, and we would like the permission of the Tribunal to submit this document later on in the course of the proceedings if and as it is ready for submission.

THE PRESIDENT: Can't it be got ready today?

MR. DODD: Mr. President, I think it may be. It was just handed to me in a handwritten translation. It was just discovered in the Document Center in Berlin and I think it is of such a nature that

the Tribunal should know about it. I will try and have it translated before the close of the session today, but I think it is the kind of thing that should not escape the attention of the Tribunal.

THE PRESIDENT: Yes. Well, perhaps you will make further application when you have got the document ready.

LT. COMDR. HARRIS: Yes, Sir.

THE PRESIDENT: Do you wish to re-examine?

DR. MERKEL: First of all, two brief questions relating to the questions of the defense for the SD.

[Turning to the witness.] Who was at the head of the Intelligence Service after Canaris was dismissed?

BEST: I, as an outsider, learned that at that time the Intelligence Service of the Armed Forces which in the past had been led as a whole by Canaris, was divided up and attached to various offices of the Chief of the Security Police. The defensive branch was turned over to Office IV, the so-called Gestapo branch; a further part to Office VI, Foreign Intelligence Service; and then finally, the Office Mil was set up as something new.

DR. MERKEL: Did Himmler head the entire executive, especially after Heydrich's death?

BEST: Here also I can only state as an outsider that I learned that Himmler, after Heydrich's death, took over the leadership of the Security Police.

DR. MERKEL: One question relating to Denmark. What was the organizational difference between the Gestapo in the Reich itself and the Security Police units which were on duty beyond the boundaries of the Reich?

BEST: Within the Reich there were established state agencies of the Gestapo whose tasks were laid down in laws, decrees, orders, and regulations. In the occupied areas there were Einsatzkommandos composed of members of the Gestapo, the Criminal Police, the SD, and numerous other auxiliaries whose duties were not always alike nor clearly defined but varied according to instructions of the central offices in Berlin and sometimes according to the directives received from Higher SS and Police Leaders, Reich commissioners, and so forth.

DR. MERKEL: For how long have you known the witness Naujocks?

BEST: I believe that I met him some time before I left my job with the Security Police, but I saw him very seldom and had no personal connections with him at all.

DR. MERKEL: Do you know that Naujocks, about 6 months before the end of the war, deserted to the Americans?

BEST: I was told about that here.

DR. MERKEL: The murders, as described by Naujocks—were they murders of the Gestapo?

BEST: No. The Gestapo proper, that is the executive branch of the commander of the Security Police, did not carry out these deeds. They were committed by special forces who were directly responsible to the Higher SS and Police Leader.

DR. MERKEL: Were the executions of Russian prisoners of war in German concentration camps known generally to the public?

BEST: No. At any rate, I can say that despite my prominent position I have learned of these matters now in the course of this Trial only.

DR. MERKEL: Does the recommendation of your book by the Reich Minister of the Interior mean that, according to this recommendation, the book received an official character?

BEST: I do not believe so, for without doubt in the same office and in the same way numerous books were recommended, books which in no way were published by State agency or published on behalf of that agency.

DR. MERKEL: Your Honor, I have no further questions.

DR. HANS LATERNSER (Counsel for General Staff and High Command of the German Armed Forces): Mr. President, I should like to clarify one question only which has arisen during the cross-examination.

THE PRESIDENT: Yes, Dr. Laternser.

DR. LATERNSER: Witness, you were shown the Document R-178. On Page 26 of this document, in the center of the page you will find that the Reich Commissioner for Defense in the defense areas agreed to the selection of the Russian prisoners of war and their murder. Then the prosecutor asked you just who this Reich Commissioner for Defense was at the time and you said that you did not know. Now I should like to ask you, who usually was the Reich Commissioner for Defense. Was not that the Gauleiter?

BEST: Sometimes it was the Gauleiter and sometimes, if I remember correctly, they were senior officials, Oberpräsidenten and men of that kind; the ministers of the various states.

DR. LATERNSER: The Reich Commissioners for Defense, therefore, were not military offices, purely military agencies under the OKH, is that right?

BEST: No. As far as I remember the organization at that time, the answer is "no."

DR. LATERNSER: Thank you very much. I have no further questions.

THE PRESIDENT: The witness can retire.

DR. MERKEL: I have another witness, and so as not to interrupt the interrogation, it would perhaps be better to have our recess now, Your Honor.

THE PRESIDENT: Very well.

[A recess was taken.]

DR. MERKEL: With the permission of the Tribunal, I call the witness Karl Heinz Hoffmann.

[The witness Hoffmann took the stand.]

THE PRESIDENT: Will you state your full name, please?

KARL HEINZ HOFFMANN (Witness): Karl Heinz Hoffmann.

THE PRESIDENT: Will you repeat this oath after me: I swear by God—the Almighty and Omniscient—that I will speak the pure truth—and will withhold and add nothing.

[The witness repeated the oath.]

THE PRESIDENT: You may sit down.

DR. MERKEL: When and how did you come to the Secret State Police?

HOFFMANN: After I passed the final juridical state examination in the year 1937, I applied to three administrative offices for a job. The first offer of employment I received was from the State Police, and I accepted it. After one year on trial at the State Police office at Koblenz, I was appointed deputy of the chief, and government political adviser. A year later, in 1939, I was transferred, in the same capacity, to Düsseldorf. There I was appointed to the position of Reich Defense adviser to the Inspector. Then when the Security Police was put to work in Holland I went there as a leading administrative executive. In September 1940 I was transferred to the Reich Ministry of the Interior, Gestapo office, and there I was put in charge of the Department for Western European Occupied Territories. In September 1943 I was sent to the BDS, Denmark, as chief of Department IV.

DR. MERKEL: You say that you were with two State Police offices. That was Koblenz and Düsseldorf as deputy chief?

HOFFMANN: Yes.

DR. MERKEL: What was the relation of these Gestapo offices to the internal administration?

HOFFMANN: The chief was political expert to the Regierungspräsident and chief of the office of the Oberpräsident. In towns and districts in which there were no branch offices of the Stapo, its lower levels were represented by the district and local police officials, and the gendarmerie. Approximately 80 percent of all matters came from these police offices.

DR. MERKEL: Could the NSDAP issue any directives to the State Police?

HOFFMANN: According to existing laws they could not. Only in places where the Gauleiter also held the position of Oberpräsident or Reichsstatthalter it was possible.

DR. MERKEL: How was it in practice? How did it work out?

HOFFMANN: In practice, the intermediate and lower offices sometimes tried to interfere. But the Police rejected that, and the interference was mostly attempted when Party members only were involved in proceedings.

DR. MERKEL: Was it not the task of the Gestapo to further the ideological aims of the Party?

HOFFMANN: No. The tasks of the State Police were purely counterintelligence against attacks directed against the State, and that within the legal provisions and regulations.

DR. MERKEL: Was the basic tendency of the Gestapo's work therefore aggressive or defensive?

HOFFMANN: It was defensive and not aggressive. That can be seen, first of all, from the following fact: When, in 1944, the duties of the counterintelligence offices were transferred to Police and SD offices, the State Police received only the purely counterintelligence tasks, whereas active espionage and sabotage were transferred to Amt Mil or Amt VI.

DR. MERKEL: Did officials of the Gestapo generally have any special privileges, for instance by being offered an opportunity to acquire objects which had been confiscated by the Gestapo and put to auction?

HOFFMANN: It had been prohibited by a decree that officials of the State Police could acquire objects which had been confiscated and put to auction. In the same way, the officials had no opportunity to participate in the Aryanization of business establishments in any way, and the immediate acquisition of Jewish property was also prohibited for them.

DR. MERKEL: You took part as a leading administrative official when the Sipo entered Holland, did you not? Was there any special previous training of the employees for this assignment?

HOFFMANN: No. No mobilization measures at all were provided, such as the procurement of interpreters or the increase of the staff by any additional assistants. Also, the regulations about pay and other economic regulations were not clear, so that we were not prepared for such tasks.

DR. MERKEL: Did the Gestapo take part in a conspiracy the purpose of which was the planning, preparing, and waging of aggressive war?

HOFFMANN: I must answer that question in the negative. As adviser for Reich Defense to the Inspector of Defense Area VI, who was chief of 6 State Police offices, I had no previous knowledge of an aggressive war being prepared. When Norway and Denmark were occupied, I learned the news from the newspapers. As deputy leader of the Gestapo office in Düsseldorf, I did not have any previous knowledge of the date set for the offensive in the West. On the morning of that day I learned of it by radio and the newspapers. When the campaign against Russia was started, I was an expert in the Gestapo office. Several days later only—it may have been 3 or 4 days—we were informed of the beginning of the offensive. Before that we had no idea whatsoever about such plans, that is to say, not any more than any German could have gathered from the political tension.

DR. MERKEL: What was in principle the composition of the personnel of a State Police office in Germany?

HOFFMANN: The Gestapo office at Koblenz, the personnel of which I have reconstructed in my mind, consisted of about 45 to 50 agents in the criminal department who were mostly taken from the Security Police and Criminal Police, or else from the former IA; and in addition, about 15 to 20 administrative and technical officials besides clerks and assistants, bringing the estimated total for the entire office to about 100 persons.

DR. MERKEL: Was the employment of all these people on a voluntary basis in general or not?

HOFFMANN: On the whole, they were employees who had entered the police before 1933 and had been detailed or transferred to the State Police. According to my recollection, there were at the most 10 to 15 percent of them who had entered the organization voluntarily after 1933.

DR. MERKEL: What were the main tasks of a State Police office in Germany?

HOFFMANN: The main subjects that were dealt with were the combating of high treason, or treason, dealing with Church questions; questions which arose from the treatment of the Jews; so-called measures against the Treachery Act (Heimtückegesetz); criminal acts

within the Party; and certain important political questions from the whole complex formed by the press and economy.

DR. MERKEL: How was the question of protective custody dealt with during your term of office with the Gestapo?

HOFFMANN: The majority of the cases were dealt with by means of a warning by the State Police, and in many cases the result of the inquiry was negative. In those cases where custody was necessary, we saw to it that the perpetrators were brought before the court. Protective custody was only applied for a short term in all those cases where the matter was not ready to be brought to the court. Protective custody by being transferred to a concentration camp was only proposed by the Gestapo if the personality of the perpetrator, judged by his previous behavior, gave reason to expect that he would continue to be an habitual offender against the regulations. To my knowledge, at the beginning of the war there were 20,000 inmates in the concentration camps of whom I estimate, at the most, one-half were held for political reasons.

DR. MERKEL: For what reasons were the other half kept there?

HOFFMANN: They were mostly criminals.

DR. MERKEL: Did the Gestapo take any measures to care for the families of the political inmates?

HOFFMANN: According to a decree of the Gestapo office, the State Police office, when taking people into protective custody, not only had to ask the welfare organizations to take care of the families, but the official who dealt with the particular case had to make sure periodically that they actually were looked after.

DR. MERKEL: Were inmates who were released from protective custody in a concentration camp forbidden to follow certain professions?

HOFFMANN: No, they could go into any profession.

DR. MERKEL: That applies also for the period during which you were in charge of the State Police office? Until what year?

HOFFMANN: That is during the time when I was Deputy Chief —until May 1940.

DR. MERKEL: The Prosecution has said that the Gestapo had fought the churches; what do you know about that from the time when you were in Koblenz and Düsseldorf?

HOFFMANN: Church matters during my period were dealt with on the basis of a separation of Church and State; that is to say, we intervened when a priest violated the so-called "Pulpit Paragraph" which had been put into the penal code in the days of Imperial

Germany or for violating the Treachery Act, or if Church organizations were active in worldly matters, which was prohibited by a decree.

DR. MERKEL: What was meant by "Jewish questions" during the period up to 1938?

HOFFMANN: The emigration of Jews.

DR. MERKEL: What was the number of officials who dealt with Jewish matters at the two offices of the Gestapo known to you?

HOFFMANN: At the Koblenz Gestapo office, one Kriminaloberassistent, who also dealt with matters pertaining to Freemasonry; at the Düsseldorf Gestapo office, one Oberinspektor with, I believe, two or three assistants.

DR. MERKEL: Was there any change brought about by the order of Heydrich of 10 November 1938 to arrest an unlimited number of Jews who were able to work?

HOFFMANN: That decree was a complete surprise for us, for the measure could in no way be expected on the basis of the measures which had heretofore been ordered. Since to my knowledge the majority of these Jews were released again later on, one could not recognize that as a basic change of the course pursued by the State leadership.

DR. MERKEL: Did you or the officials in your office have any knowledge that the deportation of Jews to the East which started approximately in 1942 really meant their destruction, biologically speaking?

HOFFMANN: No. At that time I was an adviser in the Gestapo office. During the discussions with the chief of Amt IV, nothing was ever said about that. The treatment of the Jewish question was at that time in the hands of Eichmann, who had not come out of the State Police, but had been transferred from the SD to the State Police. He and his personnel were located in a building set aside for that purpose and had no contact with the other officials. He particularly did not bring in the other departments by getting them to countersign, when for instance he ordered the deportation of Jews. To our objections in that regard he always answered that he was carrying out special missions which had been ordered by the highest authorities and therefore, it was unnecessary for the other departments to countersign—which would have given them the possibility to state their own opinions.

DR. MERKEL: Were there regulations about secrecy applied within the individual offices of the State Police too?

HOFFMANN: Yes; even within the offices themselves. It was an old police principle already before 1933 that individual cases

should not be talked about. The secrecy was rendered more strict by the well-known Führer decree. The SS and the Police courts punished any offenders most severely and all these punishments were regularly made known to the officials.

DR. MERKEL: You were in charge of Amt IV D 4 in the Reich Security Main Office since 1941. What were the duties of that department?

HOFFMANN: Yes. The tasks dealt with the political and police problems of occupied territories from a uniform point of view and particularly with summarizing them in reports to higher and to other offices. Later, there was in addition the task of caring for the interned political prisoners and other personalities from these territories.

DR. MERKEL: What was your fundamental attitude, and therefore that of the main Gestapo office, about the origin of the national resistance movement in the occupied territories?

HOFFMANN: After these territories were occupied, the Allies also started to utilize the potential forces in these territories by setting up military organizations. At first this was voluntary—whoever wanted to join such a military organization arrived at the decision to enter such organizations for patriotic or political reasons. Once he had joined such an organization, he was subordinate to military orders with all their consequences. The measures which he had to carry out were carried out as part of the Allied strategy as a whole and not in the interests of his own country. Therefrom, it resulted that all actions of the resistance movements were military actions which were not carried out spontaneously by the population. The result was that all measures of a general nature against the population were not only useless as reactions in answer to the activities of the military organization, but also harmful to German interests, because the members of these military organizations were not deterred by such measures from carrying through their orders. The consequence was that a combating of these forces was only possible on two lines: First, by Germany attempting through propaganda means to arrive at a policy which would deter people from making the political decision to fight against Germany; and secondly, to neutralize the active groups by capturing them.

DR. MERKEL: Why then did the State leadership not act in accordance with this fundamental conception of the Gestapo?

HOFFMANN: To begin with, because Himmler had not come from the ranks of the Police and because his decisions were not based on the current reports he received from the Police, but primarily on the basis of individual information which he received through other channels, particularly from the Higher SS and Police Leaders.

Moreover, the Police were not able to make current reports on matters and simultaneously give an estimate of the situation. On the other hand, the Higher SS and Police Leaders and the local offices which represented the highest German authorities in the various territories again and again interfered with the work of the Police on the lower level.

DR. MERKEL: You just used the word "interfered." Did not the Gestapo have a well-organized chain of command?

HOFFMANN: No. The offices assigned in the occupied territories were not only subordinated to the Secret State Police office centrally, but many other civilian and military authorities had influence and could, for instance, issue directives, especially the Higher SS and Police Leaders, Reich commissioners, and in part also, the military commanders.

DR. MERKEL: Can you give us two very striking examples?

HOFFMANN: First, the policy of Reich Commissioner Terboven, to carry out the shooting of hostages and other general measures against the population. For 3 years we fought in order to prevent his measures, and by reports made to Himmler we tried over and over to have him recalled. For instance, we took prisoners from Norway to Germany in order to get them away from his jurisdiction, and released them later in Germany. When ship sabotage in Denmark reached its climax in the autumn of 1944, a directive came from OKW to the military commander to have a decree of the Reich plenipotentiary introduced so that dockers and their relatives could be arrested if any acts of sabotage occurred in their docks. After heated controversy the measure was revoked because it was evident from our experience that the dockers had nothing to do with those acts at all.

DR. MERKEL: How were the Sipo and SD organized in the western occupied territories?

HOFFMANN: The organization was not uniform. In Norway and later in Belgium, there were commanders under the commanders-in-chief; in Denmark and the Netherlands there were branch offices, and in France there were commanders under the commander-in-chief. In all cases, the BDS was not only subordinate to Berlin but also to the Higher SS and Police Leader who again was immediately subordinate to Himmler, and who could therefore make decisions which did not go through the RSHA.

DR. MERKEL: What was the composition of the personnel of these offices?

HOFFMANN: There was a tremendous shortage of trained Criminal Police officers. Therefore, the State Police officers formed only a skeleton staff, which was supplemented by men of the

Criminal Police, but primarily by men drafted for that service, who had been transferred with units of the Secret Field Police to the Sipo. They represented more than 50 percent of the staff.

DR. MERKEL: Were the members of the Sipo in the western occupied territories volunteers or not?

HOFFMANN: No, they were transferred or detailed there. Only the native interpreters had volunteered with the State Police.

DR. MERKEL: Who ordered the deportation of Jews from Denmark?

HOFFMANN: That order came from Adolf Hitler through the Reichsführer SS. The commander of the Security Police tried in vain to have it deferred, but he was not successful; to my knowledge, this was one of the reasons why he was recalled.

DR. MERKEL: What was done on the part of the State Police in order to mitigate those measures as far as possible?

HOFFMANN: The ordinary Police who were mainly charged to carry out these measures were informed that doors could not be broken open by force. Secondly, with the help of the Reich plenipotentiary, it was made possible that no confiscation of property was effected, and the keys of the apartments were turned over to the Danish Social Ministry.

DR. MERKEL: Was the deportation of Jews known in Denmark beforehand?

HOFFMANN: It had been known to the Danish population and discussed by them for a long time previously.

DR. MERKEL: Why was the Danish police dissolved and part of it deported to Germany?

HOFFMANN: Because the Danish police, in its entirety, was in the closest contact with the resistance movement and the British Intelligence Service. For instance the chief of the Danish police turned over information on the deployment of German troops on Jutland and Fyn to the British Intelligence Service, and was involved in carrying out sabotage work in case of invasion. Other leading officials were involved in a similar manner. Under these circumstances, the Armed Forces feared the Danish police might be used to attack them from behind.

DR. MERKEL: Did the State Police suggest and carry through deportations?

HOFFMANN: Deportations were not initiated by the State Police, but the Higher SS and Police Leader had already requested the approval of these measures by Himmler in the Führer's headquarters when he announced his intentions to the State Police.

DR. MERKEL: Was there a uniform order to use physical cruelty or torture during interrogations?

HOFFMANN: Brutal treatment and torture were strictly prohibited and were condemned by the courts.

DR. MERKEL: Do you know of any cases in which interrogation officers were sentenced by courts?

HOFFMANN: I remember two Gestapo officials in Düsseldorf who were sentenced by a regular court for maltreatment of prisoners.

DR. MERKEL: Were third-degree methods used in interrogations in Denmark when you were in office there, and why?

HOFFMANN: Yes, third degree was carried out during interrogations. To explain this I have to point out that the resistance organizations occupied themselves with the following: First, attacks on German soldiers; secondly, attacks on trains, means of transport, and Armed Forces' installations, in the course of which soldiers were also killed; thirdly, elimination of all so-called informers and people collaborating with the German Police or other German authorities.

In order to forestall those dangers and to save the lives of Germans the third-degree interrogation was ordered and carried out, but only in these particular cases. This restriction was observed in practice even in spite of the scope of the decree.

DR. MERKEL: What rule was set up about the application of third-degree methods at the conference of those concerned in Brussels in 1943?

HOFFMANN: At a conference of officials it was stated, on the basis of experience gained, that it was already decided for the aforementioned reasons that it was advisable to restrict the application of third-degree methods to the extent mentioned.

DR. MERKEL: On whose orders were hostages shot in France? Who suggested it?

HOFFMANN: As far as I know, it was a directive from Adolf Hitler. We constantly made reports in the Gestapo office protesting against these measures, to the same extent as in other occupied territories, for the reasons that I have just given.

DR. MERKEL: Why did the Gestapo especially reject the idea of shooting hostages as reprisal for the shooting of German soldiers in Paris?

HOFFMANN: Because we were of the opinion that these acts had been carried out by a relatively small group of people, and that general measures, therefore, would not only be useless but damaging

in view of the considerations which I mentioned before. Facts really proved that in Paris these measures had been carried out by a group of not even 100 persons.

DR. MERKEL: Who ordered and carried out the deportation of workers from France to Germany?

HOFFMANN: That was a measure of the manpower administration. It is not known to me that the State Police had carried out any deportation of workers. I have to make one limitation concerning France where, upon the orders of the Reichsführer, as far as I remember the so-called "Meerschaum Action" was carried out, in the course of which French nationals, I believe 5,000, who had committed minor political offenses were forcibly transferred to Germany in order to be used as workers.

DR. MERKEL: Who was responsible for the evacuation of Jews from France?

HOFFMANN: The evacuation of Jews was carried out by Eichmann's office as I have already explained, without it being possible for the regular offices of the State Police to do anything about it.

DR. MERKEL: Upon whose directive was the harbor district of Marseilles demolished?

HOFFMANN: That was a directive by the Reichsführer, sent directly to the Higher SS and Police Leaders who, especially in France, had reached a closer collaboration with the Reichsführer, by going over the heads of the Gestapo. In Berlin we heard about this order of the Reichsführer's only afterwards.

DR. MERKEL: Did Himmler frequently issue such directives without first telling the Police?

HOFFMANN: While I was in Berlin that happened frequently. He did it on the basis of reports which he received from some other office or in spontaneous reaction to some act of sabotage or an attempted assassination.

DR. MERKEL: Do you, judging from your activity in Berlin, know of any cases of excessive methods during interrogations in the western occupied territories?

HOFFMANN: In the main this became officially known to us at the time only through the Norwegian *White Book*, which caused an investigation in Oslo and was used as a basis for our reports to the Reichsführer with the object of obtaining the recall of Terboven.

DR. MERKEL: What do you know about the deportation of French ministers and generals to Germany?

HOFFMANN: This particular deportation was ordered by the Reichsführer evidently after deliberation with only the Higher SS

and Police Leader in France. At any rate the Secret State Police office did not know anything beforehand and was confronted with the order that Prime Minister Reynaud and Minister Mandel were to be put into prison cells. The Gestapo office, after much correspondence, succeeded in getting another accommodation for the French statesmen and in reaching an understanding that there would be better quarters from the beginning for those people who were later transferred to Germany.

DR. MERKEL: Do you have any knowledge that one of the French generals at Königstein was to be executed upon the orders of Panziger in November 1944?

HOFFMANN: No.

DR. MERKEL: And that the general was to be taken away from Königstein in a car and then shot while allegedly trying to escape?

I put before you the documents which have just been presented by the American Prosecution, 4048-PS to 4052-PS, and I want you to state your opinion as to what you know about them.

[Turning to the Tribunal.] I have only an English copy, but the witness understands English very well.

THE PRESIDENT: Is it in your document book?

DR. MERKEL: No, Mr. President, it is not in the document book and I could not put it in because these documents have just been presented by the American Prosecution during the session. The numbers are Documents 4048 to 4052-PS. They have just been presented during the cross-examination of Dr. Best.

Witness, I believe it is not necessary for you to read all the documents now. I want you only to refer briefly to these documents and answer my question, that is, if you know anything at all about this incident?

HOFFMANN: The dates of the documents are January 1945 and December 1944. During that time I was in Denmark and I was not in the Secret State Police office.

DR. MERKEL: Generally, was the deportation of foreign workers to Germany carried out by the Gestapo?

HOFFMANN: No. I recall from my activity that even the arrests of escaped workers in the western occupied territories were not carried out by the Gestapo. I remember particularly that in 1940 Reich Commissioner Seyss-Inquart stressed specifically that such things should not be done.

DR. MERKEL: Was the so-called Nacht und Nebel Decree of the OKW brought before you in order to make it known to the State Police offices and commanders?

HOFFMANN: Yes.

DR. MERKEL: Did you agree with that decree?

HOFFMANN: The Nacht und Nebel Decree had been issued by the OKW in conjunction with the Reich Ministry of Justice. The Gestapo office had nothing to do with the drafting of it. There were, to begin with, great difficulties in the way of technical Police administration, because the act which had been committed abroad had to be clarified in Germany. If only for these reasons, we rejected it as being difficult to carry out.

Furthermore, its effect proved to be negative, for the relatives did not know anything about the person arrested, and this was in contradiction to our fundamental tendencies. The difficulties arose immediately when the first people were arrested and transferred to the State Police offices which had to clarify the proceedings. They showed that innocent people, too, were brought to Germany. We then succeeded in having, in spite of the terms of this decree, these people returned to their native country.

DR. MERKEL: Were the so-called Kugel Decree, the Commando Order, and the NN Decree applied in Denmark while you were there?

HOFFMANN: No.

DR. MERKEL: What do you know about the application of these decrees in the other occupied western territories?

HOFFMANN: All these were decrees which were issued after I left Berlin and therefore I cannot say anything about them.

DR. MERKEL: Do you know whether the Gestapo in the occupied western territories had special groups in the prisoners-of-war camps so as to select and execute those men who were racially or politically undesirable?

HOFFMANN: I cannot say anything about that because the decree was not known to me before the surrender.

DR. MERKEL: Did the decrees mentioned have the character of State Police decrees?

HOFFMANN: These decrees did not originate as the work of the professional Police, but they were ordered from above. The regular State Police officials therefore could not expect that such decrees would ever be issued, and besides, owing to the regulations on secrecy, the contents of these decrees were really not known to the great majority of State Police officials.

DR. MERKEL: I have no further questions to put to the witness.

THE PRESIDENT: Do the Prosecution wish to cross-examine?

M. HENRI MONNERAY (Assistant Prosecutor for the French Republic): Dr. Hoffmann, you were a member of the Nazi Party, were you not?

HOFFMANN: Yes.

M. MONNERAY: Since when?

HOFFMANN: Since 1 December 1932.

M. MONNERAY: And when you became a candidate for government service, and in particular the Police, you indicated too that you were a member of the Party, did you not?

HOFFMANN: I beg your pardon; I did not quite understand the question.

M. MONNERAY: When you put in your application for government service, that is for the Police, you indicated that you were a member of the Nazi Party, did you not?

HOFFMANN: Yes, of course.

M. MONNERAY: You said a short while ago that there was no connection between the Gestapo and the Nazi Party, did you not?

HOFFMANN: Yes, that is correct.

M. MONNERAY: Is it correct, though, that Police officials were subjected to political screening?

HOFFMANN: I did not quite understand the sense of the question. I am sorry, I did not quite understand the question.

M. MONNERAY: "Political screening" is a special term which you probably know; in German it is called "Politische Beurteilung."

HOFFMANN: Yes.

M. MONNERAY: It is true, is it not, that important officials of the Police, before being appointed, were subjected to this political screening by the Party?

HOFFMANN: Yes.

M. MONNERAY: Do you know the circular of the Party Chancellery according to which the authorities of the National Socialist Party were not obliged to consult the USC cards when it was a question of appointing new Police officials or of giving promotion?

HOFFMANN: Each official who entered was examined regarding his political attitude, and each one who was promoted was screened again.

M. MONNERAY: You were a member of the SS, were you not?

HOFFMANN: Under the assimilation decree I became a member of the SS in November 1939 after the outbreak of war.

M. MONNERAY: You had to send in an application, did you not?

HOFFMANN: We were directed by the office to make a formal application.

M. MONNERAY: And this application was similarly subjected to a political screening, was it not?

HOFFMANN: I assume so.

M. MONNERAY: And when you were in Düsseldorf, as deputy of the chief of the Gestapo services, you had under your orders some frontier Police offices?

HOFFMANN: Yes.

M. MONNERAY: Is it true that these offices had exactly the same functions as the branch offices of the Gestapo?

HOFFMANN: No, not at first, they had only the duties of frontier Police. In my time, the political tasks of the Police were the business of the Landrat.

M. MONNERAY: You are speaking of what period?

HOFFMANN: I am speaking of the period of 1939 to 1940—until September 1940.

M. MONNERAY: I remind you of a circular of the Ministry of the Interior for Prussia and the Reich, of 8 May 1937, published in the *Verordnungsblatt* of 1937 of the Ministry of the Interior for the Reich and Prussia, Page 754, which stipulates in its third article that the police tasks at the frontier of the Reich are taken over by the Police commissariats and frontier offices.

HOFFMANN: Yes, that is correct. You must distinguish between the domestic political tasks and counterintelligence work. Counter-intelligence, of course, was handled by the frontier Police, but not tasks of a domestic political nature, because most of the officials of the frontier Police did not have the necessary training to make criminal investigations independently.

M. MONNERAY: The same paragraph continues that the frontier offices of the Police are considered Gestapo offices and that they were co-ordinated with the Aussendienststellen.

HOFFMANN: I cannot understand the word; oh, yes—Aussen-dienststellen. The frontier Police was subordinated to the State Police office, Department III, which dealt with counterintelligence tasks. As the purpose of counterintelligence work is to counter aggression coming from abroad, it goes without saying that as in any police force on the border the frontier Police are the first who have to deal with these problems. I have just explained that the frontier Police essentially was not entrusted with the domestic political tasks of the Police.

M. MONNERAY: You said to us just now that people were sent to concentration camps at the request of the local Gestapo services. Is that true?

HOFFMANN: If an individual was to be sent to a concentration camp, the State Police office in Berlin had to make a request to the Gestapo office. It was only if the Gestapo office or, later on, the chief of the Security Police decided for protective custody, that the individual could be sent to the concentration camp. The transportation was provided through the usual channels of the Police administration.

M. MONNERAY: So it is a fact, Witness, that internments in concentration camps were made on the initiative of the local offices of the Gestapo?

HOFFMANN: On the demand of the local office of the State Police.

M. MONNERAY: And the local Gestapo services, when making such a request at the same time arrested the individual?

HOFFMANN: Yes.

M. MONNERAY: Did frontier posts also have the right to make requests for internment in concentration camps?

HOFFMANN: The frontier Police had only the duty of apprehending people at the frontier. They did not make any decisions independently. When the frontier Police arrested a person, all they did was to hand him over with a report to the State Police office, which continued to investigate the matter. The officials of the frontier Police were mostly beginners who were not yet able to carry out any criminal investigations. The frontier Police office was not an independent office that could make such requests. The duties of the frontier Police were in no way different from those before 1933.

M. MONNERAY: I would like to show you, Witness, a document which nevertheless dates from 1944 and which comes from the Düsseldorf Gestapo office. That is Document 1063-PS. Is it a fact that this letter was also sent to offices of the frontier Police to inform them that there was no permission to send arrested Eastern Workers back to Buchenwald concentration camp?

HOFFMANN: Excuse me; I did not quite understand the question because I was reading.

M. MONNERAY: Is it correct that this letter addressed to the frontier Police offices of the frontier Police informs them . . .

HOFFMANN: That can be seen from the contents. It is clear, of course, that a State Police office also sends its principal directives to the frontier, for the contents of this letter deal with the treatment of individuals who had been caught and that, of course, happened at the frontier. The letter also states that a Police office, having picked up such an individual, has to pass on all information when they hand over the case to the State Police office, that is, the principal office.

M. MONNERAY: It is correct, is it not, that this document indicates that requests for transfer to concentration camps which would come from frontier offices have to pass via Düsseldorf?

HOFFMANN: Yes, of course. To my knowledge, the frontier Police office could not have any direct connection with the Gestapo.

M. MONNERAY: So it is also correct that the frontier Police office could itself file requests for internment in concentration camps?

HOFFMANN: Only to the State Police office at Düsseldorf. But I must add that the document is dated 1944, and that since 1940 I was no longer engaged in State Police work in Germany; and I cannot say whether there were any changes in the directives given for the frontier Police offices during my absence. This document does not give any cause to suppose there were, because I assume that the same decree was also sent to the Landräte.

THE PRESIDENT: In general, the Tribunal thinks that there is no use cross-examining the witness about documents which are not his own documents and about which he knows nothing. You can put the documents in.

M. MONNERAY: Do you know the institution of the Secret Field Police?

HOFFMANN: In the country there was only the Gendarmerie, and in the smaller towns, the so-called communal Criminal Police.

M. MONNERAY: I believe there is a mistranslation here. I mean the "Geheime Feldpolizei."

HOFFMANN: That institution is known to me, yes. I did not understand the question at first.

M. MONNERAY: Is it correct that most of the members of the Field Police came from the Police?

HOFFMANN: The units of the Secret Field Police were composed of a few Police officials, but mostly of soldiers who had been detailed for that purpose. With regard to the groups of the Secret Field Police which were transferred to Denmark, I estimate that within one unit there were about 10 to 15 percent of Police officials, and the remainder were soldiers who had been detailed for that duty and who previously had never had anything to do with the Police.

M. MONNERAY: Is it correct that most of the officers of the Field Police came from the Police?

HOFFMANN: The leaders of the detachments and the staff were mostly Police officials, and as far as I can remember, mostly officials from the Criminal Police.

M. MONNERAY: With the permission of the Tribunal I will hand in two documents which are affidavits, Documents F-964 and

F-965, which become Exhibits RF-1535 and RF-1536. These documents indicate, for two regions of France, that the great majority of the officers of this military Police came from the Police originally.

[Turning to the witness.] Is it correct that hostages in the occupied territories were handed over to the Sipo?

HOFFMANN: I did not understand that question.

M. MONNERAY: Is it correct that in the occupied territories hostages were handed over by the Armed Forces to the Sipo?

HOFFMANN: That varied in the different territories. As far as I know, hostages in France were shot by the Armed Forces; in Norway, upon order of the Reich Commissioner Terboven, as far as I know, by the Sipo. I could not say of my own knowledge how it was in Belgium.

M. MONNERAY: Did you receive any reports on third-degree interrogations, indicating how rigorous these interrogations were?

HOFFMANN: You mean reports during my term of office?

M. MONNERAY: That was in Berlin.

HOFFMANN: No, I have said that as an official basis of information we only found out what had been printed in the Norwegian *White Book.* Apart from that nothing was known to me.

M. MONNERAY: I should like to submit to the Tribunal a report from the commander of the Sipo and SD at Marseilles, of 6 July 1944, concerning arrests of members of the French resistance, of the interrogation of these members, and of deaths which ensued. This is Document F-979, which becomes Exhibit RF-1537. With the permission of the Tribunal I would like to read an extract of this document—on Page 2 of the French translation:

> "The arrested men, Numbers 1 to 4, 6 to 12, as well as the 43 prisoners named under Number 16, were killed while attempting to escape on a large scale on 13 June 1944. Numbers 13 to 15 were killed in the neighborhood of Salon on 15 June 1944 in an attempted escape. Number 17 is still required by special section AS."—and further on—"Number 21 died at our office on 9 June 1944."

[Turning to the witness.] Concerning the Nacht und Nebel Decree, you said to us that the Gestapo services in Berlin were opposed to it. Is that so?

HOFFMANN: Yes.

M. MONNERAY: I would like to submit to you Document 668-PS, which has already been submitted as Exhibit USA-504.

HOFFMANN: I have explained that the State Police, for technical reasons, were against that decree. But since it was a decree which had been issued by the German Government, the decree had, of

course, to be carried out by the State Police as well as by other offices.

M. MONNERAY: And your Amt IV D 4, which signed this document, chose the most rigorous solution?

HOFFMANN: The solution which was indicated by the decree.

M. MONNERAY: The Armed Forces had asked your office to suggest the solution, had it not?

HOFFMANN: Do you mean the solution in this special case, or the decree in general?

M. MONNERAY: I ask you, Witness, whether it is correct that the Armed Forces requested you to suggest an answer to the question of whether the relatives of a deceased Frenchman should be advised of his death or not. Is it true that you chose the most rigorous solution?

HOFFMANN: From this document I can gather only that apparently an inquiry was sent by the OKW, and that the Gestapo office gave the answer, stating what was required by the terms of this decree.

M. MONNERAY: Is it correct that on Page 2 the Army answers you that it agrees with your proposal?

HOFFMANN: Obviously.

M. MONNERAY: Did you yourself give instructions, personal instructions, concerning the application of the Nacht und Nebel Decree?

HOFFMANN: That was not my task. I had as ministerial agent only to pass on the terms of the decree to the competent offices, and the rest was done by the local offices.

M. MONNERAY: Did you have any connection with the concentration camp services?

HOFFMANN: I had connection with the concentration camps only from the time when I was charged with the care of the French ministers, because Prime Minister Reynaud and M. Mandel first lived in cells at Oranienburg, and I had to see them there frequently in order to find out what they needed. And the same applied later to the Concentration Camp Buchenwald where Prime Minister Blum and M. Mandel were accommodated in a small house, a cottage, in the settlement where the management was quartered. And concerning the castle of Gitter, the guards posted there were taken from units of the Concentration Camp Dachau. Those were the only cases in which I had indirect contact with the administration of concentration camps.

THE PRESIDENT: It is time to adjourn.

[The Tribunal recessed until 1400 hours.]

Afternoon Session

THE PRESIDENT: It will perhaps be convenient to counsel for the organizations to know that the Tribunal proposes to take all the oral evidence, the witnesses for the organizations, first, and then that they should comment upon their documents afterward, because some of the documents, namely affidavits, have not yet been got ready. I think that will probably be convenient to counsel of the organizations.

And the Tribunal proposes to sit on Saturday morning in open session until 1 o'clock.

M. MONNERAY: You told us a while ago that, except for the protection of certain French political persons, you had nothing to do with the control of the concentration camps?

HOFFMANN: No.

M. MONNERAY: Did you establish regulations for the concentration camps?

HOFFMANN: No.

M. MONNERAY: Did you pass on instructions to the concentration camps?

HOFFMANN: I cannot remember.

M. MONNERAY: I should like to show the witness, with the permission of the Tribunal, Document 2521-PS, which will become Exhibit RF-1538. This document is not in the document book; it is a new item.

On Page 2 of this document we find an extract of the Night and Fog Decree for the use of the concentration camp offices. This document is dated 4 August, 1942, and comes from Amt IV D 4.

HOFFMANN: Yes. That is a factual transmission of the Night and Fog Decree to the inspector of the concentration camps. I can no longer remember from when they started carrying out the Night and Fog Decree in concentration camps. I assume that the reason was the difficulty of carrying out the procedure in the individual offices.

M. MONNERAY: This document is signed by yourself, is it not?

HOFFMANN: It says, "Signed, Dr. Hoffmann," and there is a stamp there, too. I must have signed it at some time.

M. MONNERAY: Is it a document that was drawn up in your office?

HOFFMANN: From its appearance, I must assume so.

M. MONNERAY: So it is certain that your office gave instructions and explanations about this decree?

HOFFMANN: Yes. That is quite clear and that was never disputed.

M. MONNERAY: You told us this morning that the State and the State leadership did not act according to the ideas of the Police?

HOFFMANN: In many cases not according to our judgment; that is correct.

M. MONNERAY: Do you consider that the subject matter of the Night and Fog Decree conforms to Police conceptions?

HOFFMANN: No.

M. MONNERAY: That is to say you think that this decree is contrary to Police conceptions?

HOFFMANN: Yes. I have stated that this decree was given out without any suggestion by the Police, and in my statements concerning our conception of the origin and the combating of the military organizations, I declared that this decree does not conform to it. If, however, this decree was issued by the supreme State leadership, then, of course, the Police had to act according to these principles and could only try to put through its own views within the framework of this decree.

M. MONNERAY: In other words, whether the Gestapo approved of the measures taken or not, they co-operated in carrying them out.

HOFFMANN: Yes, indeed.

M. MONNERAY: Had the Gestapo the right to carry out executions?

HOFFMANN: No. However, I did hear that in one sector, which did not come under my jurisdiction, regulations of that sort did exist.

M. MONNERAY: What department was that?

HOFFMANN: As far as I know, the branch dealing with Polish questions.

M. MONNERAY: Did your office, IV D, receive any information on the right of the Gestapo to carry out executions?

HOFFMANN: I cannot remember whether we received decrees of that sort.

M. MONNERAY: I should like to show you Document 1715-PS, which will become Exhibit RF-1539.

[The document was submitted to the witness.]

It is a document signed by Kaltenbrunner and which was sent to all the offices of the Gestapo for their information and to your office, IV D.

HOFFMANN: I should like to call your attention to the fact that my department, D 4—Dora 4—was the group in which all

occupied countries were comprised. This document is addressed to the Gruppenleiter IV D, not to Department 4—Dora 4. This document, therefore, was not sent to my department. Since no executions were carried out in the western sector, the document was not sent to my department.

M. MONNERAY: But the documents correspond to the reality. The Gestapo could carry out executions.

HOFFMANN: From my own knowledge, I cannot give you any further details about the handling of this problem in practice.

M. MONNERAY: Were you acquainted with Eichmann?

HOFFMANN: From my activity, I know that Eichmann was in charge of the Jewish branch in the Reich Security Main Office.

M. MONNERAY: Your office received no information about anti-Jewish activities in occupied territories, did it?

HOFFMANN: My office received the monthly reports from the commanders in the occupied territories. In these reports, for example, the deportation of Jews was reported on and I have already explained that I learned the fact of the Jewish deportations for the first time from these reports, and that when I approached Eichmann on this matter and asked why these facts were not previously made known to the department, he refused, saying that he acted only on the basis of superior orders.

M. MONNERAY: Did Eichmann have deputies in the occupied territories?

HOFFMANN: I know that he had his special deputies with the various BDS commanders.

M. MONNERAY: Did these deputies have the right to give orders to the Gestapo offices?

HOFFMANN: I cannot give you any information from my own knowledge about the exact position of these deputies of Eichmann's. Eichmann was theoretically a part of the Gestapo office.

M. MONNERAY: A part of Department IV, was he not?

HOFFMANN: Theoretically he was attached to Department IV, but he conducted a very intense activity of his own and I also emphasized that this may be traced back largely to the fact that he did not come from the Police.

M. MONNERAY: Were you kept constantly posted on Eichmann's deputies in the various occupied territories?

HOFFMANN: Only from the monthly reports of the commanders.

M. MONNERAY: And these reports told you, for instance, the number of deportations?

HOFFMANN: Yes.

M. MONNERAY: Did the Gestapo and the Sipo in the occupied territories collaborate in these deportations?

HOFFMANN: As far as I know, yes.

M. MONNERAY: What were the functions of Department II of the RSHA?

HOFFMANN: Department II of the Reich Security Main Office dealt with administrative and economic questions as well as—from the beginning until, I believe, 1944—with questions of passports and the interning of foreigners, and I believe with the judiciary.

M. MONNERAY: Were the employees of this office chiefly officials from the executive or administrative branch of the Police?

HOFFMANN: Amt II consisted mainly of administrative officials and lawyers.

M. MONNERAY: According to you, this office was very poorly informed as to what happened in the executive branch?

HOFFMANN: Yes, because essentially they dealt with legal and administrative questions.

M. MONNERAY: Do you know what were the functions of Department II D?

HOFFMANN: If I am not mistaken, it was questions of jurisdiction.

M. MONNERAY: I should like to show you a document which has already been submitted as Document 501-PS, Exhibit USA-288.

[The document was submitted to the witness.]

According to this document, the gas vans which were intended to exterminate the population in the Eastern territories, especially Jews, were supplied by this Department II, which according to this document was perfectly aware of the extermination. Do you still maintain that there was no connection between the administrative and the executive offices?

HOFFMANN: As far as I can see from the document, Department II D concerned the—concerned the technical section which dealt with motor vehicles, and as far as the contents are concerned, it deals with special motor vehicles, and it is obviously a report of a motor pool to the central office for the handling of motor vehicles, in Berlin.

M. MONNERAY: You admit that this is a document which speaks of certain special vehicles intended for extermination?

HOFFMANN: So far as I can see from running over the document rapidly, you could draw that conclusion from the contents.

M. MONNERAY: Dr. Hoffmann, one last question . . .

THE PRESIDENT: M. Monneray, I think the document speaks for itself.

M. MONNERAY: Yes, Sir.

[Turning to the witness.] Did you often have the impression in the course of your activity in the Gestapo that the State leadership was asking you to carry out tasks which were contrary to what you would call Police duties?

HOFFMANN: In connection with certain questions during my activity in Berlin, as well as also later in Denmark, I had the feeling that certain duties were assigned to us which were contrary to our judgment as policemen; but in this respect, I must remark that I could only judge these questions from the point of view of a Police official. I could define my attitude to things only on the basis of my professional knowledge, and I did not know what had caused the leadership to make the decisions which they transmitted to us.

M. MONNERAY: You did not consider as criminal, for example, the order concerning certain categories of Soviet prisoners?

HOFFMANN: I must honestly say that I was absolutely unable to understand such an order, particularly since it could not be explained at all by Police reasons.

M. MONNERAY: But nevertheless, the Gestapo lent itself to the execution of these orders, did it not?

HOFFMANN: I cannot tell you that from my own knowledge.

M. MONNERAY: I have no further questions.

DR. MERKEL: Just a few questions, Mr. President.

[Turning to the witness.] Did the members of the Gestapo who had been assimilated into the SS by the assimilation decree come under the orders of the SS or the SD and did they perform their duties there?

HOFFMANN: No. The registration in the SS was merely a theoretical measure, and after my formal entry into the SS in the year 1939 I did not perform any service with either the SS or the SD.

DR. MERKEL: In the order of protective arrest issued by the RSHA was the concentration camp to which the prisoner was to be delivered already designated?

HOFFMANN: I think I remember that it was, but I cannot tell you exactly.

DR. MERKEL: Who carried out the arrests of those people against whom an order of protective arrest had been issued, in case these people were still at liberty?

HOFFMANN: Either the officials of the Gestapo directly, or possibly also the constabulary and the local Police authorities.

DR. MERKEL: Who escorted the trainloads of prisoners to the concentration camps?

HOFFMANN: As far as I remember, this transportation was handled by the general Police administration in regular prisoner transport cars which traversed the entire Reich area according to a regular schedule.

DR. MERKEL: Did you or your office know anything about the true conditions existing in the concentration camps?

HOFFMANN: No.

THE PRESIDENT: What do you mean by "regular schedules"? Do you mean special transports or do you mean ordinary trains?

HOFFMANN: They were special cars for prisoners which were used by the general Police administration between the individual prisons and which also carried ordinary prisoners. These cars were attached to the regular express and passenger trains, and in these trains the prisoners were transported. There were no special transports.

DR. MERKEL: Were the concentration camps under the Gestapo?

HOFFMANN: No. Concentration camps were under the inspector of concentration camps at Oranienburg and, as far as I know, this inspectorate was under the SS Economic and Administrative Main Office.

DR. MERKEL: The very document just submitted by the Prosecution, 2521-PS, also speaks for this fact, does it not, since the return address is the SS Economic and Administrative Main Office at Oranienburg and it is addressed to the camp commanders of all the concentration camps?

HOFFMANN: Yes.

DR. MERKEL: Did you know about the annihilation of Jews at Auschwitz?

HOFFMANN: No. I only heard about these things after the surrender.

DR. MERKEL: Did you know that Eichmann's activity was directly connected with the biological extermination of the Jews at Auschwitz?

HOFFMANN: As long as I was in office—and before the surrender, I heard nothing about problems of that kind.

DR. MERKEL: When did you first receive reliable knowledge about these things?

HOFFMANN: After the surrender.

DR. MERKEL: I have no further questions for the witness.

THE TRIBUNAL (Mr. Francis Biddle, Member for the United States): Witness, you spoke of a decree under which the Gestapo were permitted to use third-degree methods in Denmark, right?

HOFFMANN: Yes, indeed.

THE TRIBUNAL (Mr. Biddle): Was that decree in writing?

HOFFMANN: That was a written decree by the Chief of the Security Police and the SD.

THE TRIBUNAL (Mr. Biddle): And was it signed?

HOFFMANN: Yes. But who signed it . . .

THE TRIBUNAL (Mr. Biddle): Who signed it?

HOFFMANN: As far as I recall, the first decree was signed by Heydrich and the second one by Müller on behalf of someone, but I cannot say for certain on whose behalf.

THE TRIBUNAL (Mr. Biddle): What was the date of the first decree?

HOFFMANN: I believe it was 1937.

THE TRIBUNAL (Mr. Biddle): What month?

HOFFMANN: That I cannot tell you anymore.

THE TRIBUNAL (Mr. Biddle): What was the date of the second decree?

HOFFMANN: 1942.

THE TRIBUNAL (Mr. Biddle): Did you see both decrees yourself?

HOFFMANN: Yes.

THE TRIBUNAL (Mr. Biddle): What was in the first decree?

HOFFMANN: The contents of the first decree provided that for the purpose of uncovering organizations hostile to the Reich, if no other means were available, the person involved could receive a certain number of blows with a stick. After a specified number, a physician had to be called in. This order could only be used for extracting a confession for conviction in individual cases. Approval for this had to be obtained in every case from the Chief of the Security Police and SD.

THE TRIBUNAL (Mr. Biddle): Wait a minute. Was the decree limited to any particular territory, or did it cover all the occupied territories?

HOFFMANN: The decree of 1937 applied to the Reich territory, but I believe it then applied automatically to the activities of the Sipo in those regions where it was stationed. I cannot remember any limitations.

THE TRIBUNAL (Mr. Biddle): Were there any other methods of third degree which were allowed as well as beating in this first decree?

HOFFMANN: According to the second decree the only measures approved were those which were milder than blows with a stick—standing at interrogations, or fatiguing exercises. They are enumerated in the decree, but I do not remember them all.

THE TRIBUNAL (Mr. Biddle): You remembered one of them—standing up, for instance. What was the provision of the decree with respect to standing up during interrogations?

HOFFMANN: I personally never attended such an interrogation.

THE TRIBUNAL (Mr. Biddle): I did not ask you that. I said, what was the provision with respect to standing up?

HOFFMANN: It only said that the person involved could be required not to sit down during the interrogation but had to stand.

THE TRIBUNAL (Mr. Biddle): And how long were the interrogations? How long were they actually?

HOFFMANN: The decree did not mention that, but...

THE TRIBUNAL (Mr. Biddle): I said, how long were the interrogations? How long were they actually?

HOFFMANN: Well, under certain circumstances they naturally lasted very long. It was only in that way that standing up was a severe measure.

THE TRIBUNAL (Mr. Biddle): Was the number of strokes that could be used mentioned in the decree? Did it say how many times a man could be struck with a stick?

HOFFMANN: As far as I recall, this measure could be applied only once to the same individual; that is, it could not be repeated. And the number of blows, in my opinion, was specified in the decree.

THE TRIBUNAL (Mr. Biddle): And then the doctor was called?

HOFFMANN: No, I believe it was this way. If a fairly large number of blows was provided for in advance, then the physician had to be present immediately.

THE TRIBUNAL (Mr. Biddle): And what was the number of blows that was to be permitted, do you remember that?

HOFFMANN: As far as I recall, 20; but I cannot tell you that exactly.

THE TRIBUNAL (Mr. Biddle): And both decrees covered all of the German Reich, including the occupied territories, is that true?

HOFFMANN: Yes.

THE TRIBUNAL (Mr. Biddle): And the decrees were effective in France, as well as in Denmark, isn't that true?

HOFFMANN: Yes, later. In the second decree, the power of approval of the Chief of the Security Police was delegated to the commanders. That was in 1942.

THE TRIBUNAL (Mr. Biddle): So that after that the commanders could order beatings without going to the head of the Security Police?

HOFFMANN: Yes, after 1942.

THE PRESIDENT: The witness can retire.

DR. MERKEL: Mr. President, I should like to make one small correction—a little misunderstanding which I think I can clear up. While examining the witness, the Tribunal has just mentioned a commander in the occupied territories. I should like to be permitted to ask the witness whether he meant the commanders of the Security Police or the commanders-in-chief of the Security Police. They are two entirely different persons.

HOFFMANN: As far as I recall, the commanders-in-chief.

THE PRESIDENT: That's all. Thank you very much.

LT. COMDR. HARRIS: If the Tribunal please, I would like to put one question to this witness, following the questioning of the Tribunal. I believe that the witness testified that in this second decree there was no provision for beatings.

[Turning to the witness.] Did I understand you to say that, Witness?

HOFFMANN: No, I said, beatings and—but from now on still further measures which, however, were milder in nature than the beatings.

THE PRESIDENT: I thought when I took it down, that he said there were milder methods in the second decree, standing up and tiring methods.

LT. COMDR. HARRIS: Yes, Sir; that is what I understood but I now gather that the witness admits that under both decrees beatings were authorized; and that is all that I wish to establish.

DR. MERKEL: I have no further questions to the witness.

THE PRESIDENT: What is it you want, Colonel Karev?

COLONEL D. S. KAREV (Assistant Prosecutor for the U.S.S.R.): The Soviet Prosecution will request the permission of the Tribunal

to present new documents concerning the criminal activity of the Gestapo.

THE PRESIDENT: Yes, certainly.

COL. KAREV: First of all, I want to submit to the Tribunal a document, Number USSR-258, containing excerpts from a list of hostages shot by the German Police in Yugoslavia. If the Tribunal considers it necessary I shall quote just two sentences out of this document.

At the end of Paragraph 1 of this document it says:

"The executions were effected according to the decisions and by order of the chiefs of the Gestapo or the SD."

Then I shall draw the attention of the Tribunal to Item "C" at the end of the second page, which states as follows:

"... according to different information, lists, death records, *et cetera,* the following number of victims has been established up till the present time ..."

I omit here a detailed enumeration of the victims and merely draw the attention of the Tribunal to the fact that 237 persons were shot or hanged in the year 1942, altogether at the very least 1,575 persons.

Then I submit here Document Number USSR-465, which is the notification issued by the German Police about destroying a number of villages in Slovenia and of shooting all the men of those villages for helping the partisans. I draw the Tribunal's attention just to these two sentences again at the beginning which say:

"On 20 July 1942 the village of Hrastnigg and part of the villages of Kanker and Savoden were destroyed and the entire male population shot. The remainder were deported. The measure was taken because all adults ... had helped the partisans or at least by silently assenting had supported their activities."

One more sentence of the document, saying that in addition to all the measures taken here by the Gestapo, a number of civilians had to be shot as hostages.

The third document is USSR-416. I shall not read it. It is a list of Yugoslav and Allied subjects compiled in the year 1938. It states that Yugoslav subjects were frequently arrested without having been suspected or guilty of a crime. Next to every one of the 4,000 names listed there was a note as to whether the Gestapo was responsible for the arrest or another authority—the Reich Security Main Office. At any rate the document was found in the archives of the Gestapo in Yugoslavia.

The fourth document is Number USSR-418. It contains a copy of an order of the German Police captured in Yugoslavia with a decree of Himmler to arrest all persons who had expressed joy in connection with the tragedy overtaking the Germans at Stalingrad and to transfer them to a concentration camp.

I think, Mr. President, there is no need to read it all.

The next document is Number USSR-71. It is very brief and consists of a telegram sent by the German Police referring to officials of the diplomatic service, attachés, diplomatic couriers, consuls, *et cetera*. The telegram was sent one day prior to the German declaration of war to or invasion of Yugoslavia, which in itself is a violation of international law. Document Number USSR-316 deals with the same subject concerning the application of this telegram to diplomatic couriers, consuls, *et cetera*.

The last document is USSR-518. It is the testimony of the former Lieutenant General Krappe of the German Armed Forces which states that the Gestapo killed their own agents for the purpose of keeping things secret and that thereupon an investigation before the superior had taken place. This is all that I wanted to submit.

If it is possible, I would like to request the Tribunal to permit me also to quote several other USSR exhibits referring to the criminal activity of the Gestapo. These documents had been submitted in connection with other questions, whereas they were not given due consideration with regard to the Gestapo. May I read them to the Tribunal? Or will the Tribunal dispense with them?

THE PRESIDENT: These are not documents which have already been put in evidence, are they?

COL. KAREV: No, Mr. President; these documents have been presented and accepted by the Tribunal, although not in connection with the activity of the Gestapo but with regard to other questions; therefore, I should like to draw the attention of the Tribunal to some excerpts which so far were disregarded, although the documents themselves were presented to the Tribunal before.

THE PRESIDENT: The Tribunal thinks that the appropriate time for you to deal with these documents will be when the case is argued on behalf of the Prosecution, if they are documents which have already been put in evidence.

COL. KAREV: They will; thank you, Your Honor.

THE PRESIDENT: Now, the witness may retire. Have you had all your witnesses?

DR. MERKEL: Yes, Mr. President. If I understood Your Lordship correctly, the presentation of documentary evidence is to take place after all the witnesses of all the organizations have been heard.

THE PRESIDENT: Yes, the object of that being that all the documents can then be dealt with together, as some of the documents are not yet available. So we will go on with the next organization.

DR. MERKEL: I should like to ask just one more thing. In my submission of documents may I refer to the documents which have only now been brought forth by the Prosecution and possibly introduce evidence to refute them? This concerns the documents which have been introduced today for the first time.

THE PRESIDENT: When you say "refute" you mean criticize the documents and argue upon them, I suppose.

DR. MERKEL: To argue upon them and possibly introduce contradictory evidence against the new documents which were submitted today by means of new affidavits of one kind or another, or even documents.

THE PRESIDENT: The time for you to "refute", as you say, or to argue upon the documents which have been put in today by the Prosecution will be when you make your final argument. At the end of the oral evidence for all the organizations, all the organizations will offer their documentary evidence and comment upon it shortly, and then they will have time within which they may argue the whole case and at that time you will be able to argue and "refute," as you put it, the documents which have been put in today.

DR. MERKEL: Thank you.

THE PRESIDENT: Now I call upon counsel for the SD. Will you please call your witnesses now?

DR. GAWLIK: I have interrogated seven witnesses before the Commission. I do not have the complete transcript yet and will hand it in later. With the approval of the Tribunal I shall call the witness Hoeppner.

[The witness Hoeppner took the stand.]

THE PRESIDENT: Will you state your full name?

ROLF HEINZ HOEPPNER (Witness): Rolf Heinz Hoeppner.

THE PRESIDENT: Will you repeat this oath after me: I swear by God—the Almighty and Omniscient—that I will speak the pure truth—and will withhold and add nothing.

[The witness repeated the oath.]

THE PRESIDENT: You may sit down.

DR. GAWLIK: First, I shall put a few preliminary questions in order to prove that the witness has the necessary knowledge to answer questions on the subject. When were you born?

HOEPPNER: On 24 February 1910.

DR. GAWLIK: Since when have you been a member of the SD?

HOEPPNER: Since the beginning of 1934.

DR. GAWLIK: What activity did you carry on before then?

HOEPPNER: Before that I studied and performed preliminary legal service.

DR. GAWLIK: What law examination did you pass?

HOEPPNER: I passed the first and second state legal examinations.

DR. GAWLIK: What was your position in the SD?

HOEPPNER: First I was an honorary assistant and adviser in an Oberabschnitt, later Stabsführer in a Leitabschnitt, then Abschnittsführer and finally Gruppenleiter in the Reich Security Main Office.

DR. GAWLIK: What group did you head?

HOEPPNER: I directed Group III A, law administration and communal life.

DR. GAWLIK: In what other spheres of duty did you work in the SD?

HOEPPNER: In the beginning, during my honorary activity, I worked on press matters. Later, on personnel and organizational questions, and as Stabsführer and Abschnittsführer I was responsible for the entire sphere of duty of the Security Service in my jurisdiction.

DR. GAWLIK: Now I shall turn to my first topic. I want to prove that the SD as an intelligence organization and the SS formation in the SD were completely different organizations. What does the abbreviation SD mean?

HOEPPNER: The abbreviation SD means Sicherheitsdienst (Security Service).

DR. GAWLIK: What different meanings did the word have?

HOEPPNER: The word Sicherheitsdienst has two completely different meanings. First, it means the special SS formation SD, and second, the Security Service as an intelligence service.

DR. GAWLIK: Was the foreign intelligence service also characterized as SD?

HOEPPNER: Yes, it was also characterized as SD, and, indeed, as the SD-Ausland.

DR. GAWLIK: Was Amt VII known as SD also?

HOEPPNER: Yes.

DR. GAWLIK: What was the activity of Amt VII?

HOEPPNER: Amt VII occupied itself with questions on archives and library matters and, as far as I know, it had a number of special scientific duties.

DR. GAWLIK: Was the SD as an SS formation completely different from the SD domestic intelligence service, and the SD foreign intelligence service?

HOEPPNER: Yes.

DR. GAWLIK: To whom was the special SD formation of the SS subordinate?

HOEPPNER: The special SD formation of the SS was subordinate to the Chief of the Security Police and the SD.

DR. GAWLIK: Who belonged to this special formation?

HOEPPNER: This special formation consisted of, first the members of the intelligence branch of the Security Service, who came from the General SS. Secondly, there belonged to this special formation those who, after they worked in this intelligence service, were taken into Amt VII, and thirdly, there belonged to this special formation the SS members of the Security Police, that is the State Police and the Criminal Police, and finally, the members of formations who had a certain working connection with the Security Police.

DR. GAWLIK: Were there other persons as well who belonged to this special formation and who were not active with the Security Police or the SD?

HOEPPNER: Yes, by that I meant the fourth group which I just spoke of, who were taken into the SS as customs border guards.

DR. GAWLIK: Did this group of persons have any kind of common task?

HOEPPNER: No. The situation with respect to this group of persons was merely that they were first registered in the SD Main Office and later, after the Reich Security Main Office was founded in September 1939, in Amt I of this Reich Security Main Office.

DR. GAWLIK: Now, I come to the second topic: the relationship of the domestic intelligence service, Amt III, to the foreign intelligence service, Amt VI, and to Amt VII. Did Ämter III, VI, and VII represent different organizations, or one unified organization of the SD?

HOEPPNER: They represented different organizations. I might give the reasons for that in a few words. First, the spheres of duty of these three offices were completely different. Amt III was concerned with the domestic intelligence service, Amt VI with the

intelligence service abroad, and Amt VII with questions regarding libraries and archives. Second, the set-up of these organizations was completely different. In Amt III, domestic intelligence service, the chief value of the organization lay primarily in the regional office (Aussenstelle) and in the sector (Abschnitt). The method of work was therefore decentralized. Perhaps I might give the reasons for that in a few words: Amt VI, foreign intelligence service, involved a strong centralization of duties. Amt VII had nothing but a central office.

DR. GAWLIK: Was there any discernible connection between these offices, III, VI, and VII, with a general common purpose?

HOEPPNER: No. The aims of these offices were far too varied for that. The members of these offices hardly had any connection with each other.

DR. GAWLIK: Now I come to the third topic, the development of the SD until the establishment of the Reich Security Main Office and particularly to the question, whether during this time it was one of the duties of the SD to collaborate with others on a common plan and conspiracy. When was the SD domestic intelligence service established?

HOEPPNER: The SD was established in 1931-32.

DR. GAWLIK: From its formation up to the end of the war did the SD have the same duties, the same purpose, and the same activities?

HOEPPNER: One could not say that by any means. The duties and objectives varied even—changed very much according to the political alignment. While the Security Service had the task of helping the General SS up to about 1933 or the beginning of 1934, there was no longer any reason for this task after the parties with which the National Socialist Party had competed were dissolved and, therefore, there was no longer a legal opposition party, and the combating, that is, observation or repelling, of an illegal opponent became the task of the Gestapo.

DR. GAWLIK: What different periods are there to be distinguished from its establishment until the end of the war?

HOEPPNER: I just mentioned one period, the one from 1931 to about 1933 or 1934. The second period began in 1934. As an event, or perhaps better, as a sample of particular importance, I should like to begin with the order of the Führer's deputy that the Security Service . . .

DR. GAWLIK: Witness, first of all just give us the various periods. I will then question you briefly about specific periods.

HOEPPNER: The first period was from 1931 to 1934, the second was from the middle of 1934 until the formation of the Reich Security Main Office, and the third comprises the period from the establishment of the Reich Security Main Office to the end of the war.

DR. GAWLIK: What was the aim—what was the aim, the duties, and the activity of the SD in the period from 1931 to 1934?

HOEPPNER: The task of the Security Service from 1931 to 1934 was that of a formation of the Party, namely, that of assisting the SS in their task of guarding the Führer and protecting public meetings, by supplying the SS with as much information of rival opposition parties as possible from its intelligence service: For instance, what measures were being planned by other parties, and whether speakers were going to be attacked, or whether any meetings might be disturbed, and so forth.

DR. GAWLIK: At this time had the SD already been developed into a powerful, professional, thoroughly trained espionage system by its leader Heydrich?

Mr. President, in this connection I should like to refer to the trial brief against the SS, Page VIII B of the English text, VIII B at the top, Lines 1 and 2.

[Turning to the witness.] Please answer the question.

HOEPPNER: In answer to this question I have to start with my own observations which I made when I entered the Security Service in the beginning of 1934 and with what I learned from my comrades then and later about the preceding period. Before 30 January 1933 the Security Service represented a very small organization which had hardly more than 20 or 30 regular members and not many more honorary members, so that one cannot assume central direction and professional training, that is a real espionage network.

DR. GAWLIK: You spoke of 20 to 25 regular members—for what area?

HOEPPNER: For the area of the entire Reich.

DR. GAWLIK: Were there other members—honorary members?

HOEPPNER: The number of honorary members was not much larger.

DR. GAWLIK: Did the members of the SD make a general agreement among themselves to participate in crimes against peace, against the laws of war and against humanity?

HOEPPNER: No. If you speak of any agreement at all—since they hardly knew one another—they merely had the intention of helping the Party which was legally contending for power by defending it against rival opposition parties.

DR. GAWLIK: During the years 1933 and 1934 did the members of the Security Service pursue the aim of supporting any persons whatsoever who had undertaken a general and common plan to commit crimes against peace, against the laws of war, or humanity?

HOEPPNER: No.

DR. GAWLIK: During the years 1931 to 1934, did the members of the SD know anything at all about such a plan?

HOEPPNER: I believe the case of the members of the SD was not very different to that of the overwhelming majority of the German people. Nothing was known.

DR. GAWLIK: Now I come to the second phase.

What was the aim and task of the SD during the period from 1934 until the creation of the Reich Security Main Office in the year 1939?

HOEPPNER: After a legal opposition party was no longer in existence, and there was merely an illegal political opponent, the combating of which, as I have already mentioned, was the task of the State Police which had been evolved from the Political Police department, the task of the Security Service had to change. First, it changed in this way, that other ideological and political forms and other ideological groups . . .

DR. GAWLIK: Witness, can you perhaps state the tasks and aims more briefly?

HOEPPNER: Well, to name a few examples, Freemasons, Marxists, Jews—all these groups were classified in a more scientific and statistical way so that the Party would have material for training and other tasks.

The ultimate aim was to become the Party's sole political intelligence and counterintelligence service, from about July 1934 onward, something which, by the way, was never achieved, since there continued to be an enormous number of information services and sources of information up to the end.

Even this task of scientific research work with regard to other political groups or other ideological organizations was not permanent either, for after a short time it became obvious that this research work, too, belonged to the sphere of activity of the Secret State Police because in the long run such an investigation of opponents could not be separated from the executive branch, from the information acquired in the daily interrogations, and so forth. Therefore, these tasks were changed when a very clear division of duties was made between the Security Service and the State Police, a division which, starting in the middle of 1938, was carried through especially in the year 1939 and practically ended with the

creation of the Reich Security Main Office in September of 1939. After this division of duties the task of the Security Service would have been quite superfluous if it had not been for the fact that out of this Security Service, beginning with the so-called intellectual SD in 1933 and 1934, through a special advisory section for "culture" and a central department for "spheres of life, intelligence service"—I said that out of this Security Service there developed a specific task for the domestic intelligence service, namely, the task of investigating the spheres of life of the German people according to developments and informing the executive offices about these developments as a whole.

THE PRESIDENT: As I said to the other counsel, we do not want these witnesses to go over exactly the same ground that they have gone through before the Commission.

We have got that evidence. We only want you to present them here in order that we may see what credibility is to be attached to their evidence and to deal with any particularly important or new subject which has not been dealt with before the Commission.

Now this witness seems to be going over exactly the same ground which he has gone over before the Commission and at great length. It is simply doing the same thing twice over.

DR. GAWLIK: My understanding, Mr. President, was that I would briefly summarize once more the results of everything which had been taken up in the Commission for longer than 2 days. And that is what I am doing. I am now bringing—the witness has been examined before the Commission for 2 days and now perhaps I shall present that material in 1 to 1½ or 2 hours. But I thought that it was precisely these various objectives of the Security Service for each year that would be of interest to the High Tribunal.

THE PRESIDENT: Well, will you try to present the summary within reasonable limits?

DR. GAWLIK: Yes, indeed, Mr. President.

[Turning to the witness.] What can you say about the significance of the work of the SD during this period?

HOEPPNER: The work of the SD during this period was of almost no importance. It was primarily concerned with finding its own proper task, with establishing an intelligence network, and with locating the necessary, basic material. Particularly important is the fact that during this time the Security Service hardly appeared in public.

DR. GAWLIK: The Prosecution has declared that the SS and likewise the SD were elite groups of the Party, the most fanatical adherents of the Nazi cause, who assumed the obligation of blind loyalty to the Nazi principles and were ready to carry them out

unswervingly, at any cost. In this connection I should like to refer to the trial brief against the SS, Page 7, A and B.

I ask you, Witness, were the regular and honorary workers in the SD selected according to those principles?

HOEPPNER: The regular and honorary workers were selected on the basis of being capable in some professional capacity and were men of decent character.

DR. GAWLIK: Please answer the question first of all with "yes" or "no."

HOEPPNER: No.

DR. GAWLIK: And now please give your reasons.

HOEPPNER: I have already said that the regular and honorary members were selected because they were capable in some professional capacity and were of good character. It was not a prerequisite for either regular or honorary co-operation that anyone had to be a Party member or a member of the SS.

DR. GAWLIK: Did the SD do things for which no government office or political party, not even the Nazi Party, was willing to bear the full responsibility in public?

I should like to call the attention of the High Tribunal to the trial brief against the SS, Page 7, second paragraph.

HOEPPNER: No.

DR. GAWLIK: Did the SD work secretly behind the scenes in the period which you described, from its establishment until 1939?

HOEPPNER: No. One could give a whole list of examples. First of all, the regular members wore uniforms. They had the SD insignia on their sleeves. The offices had signs and were listed in the telephone directory, *et cetera.*

DR. GAWLIK: During the period from 1934 to 1939 did the members of the SD make a common and general agreement to participate in crimes against peace, against the laws of war, or against humanity?

HOEPPNER: No.

THE PRESIDENT: Would that be a convenient time to break off?

[A recess was taken.]

DR. GAWLIK: During the period from 1934 until 1939 did the members of the SD pursue the aim and task of supporting any individuals who had made a general and common plan for committing crimes against peace, the laws of warfare, and against humanity?

HOEPPNER: No.

DR. GAWLIK: Did not the SD also support this sort of thing by obtaining information on actual or possible opponents of the Nazi leaders and so contribute to the destruction and neutralization of the opposition?

HOEPPNER: No.

DR. GAWLIK: Can you give reasons for your answer to the question?

HOEPPNER: Yes.

DR. GAWLIK: But please be brief.

HOEPPNER: It was the task of the Security Service to investigate failures in all spheres of life. Individual cases were examples. It was not its task to institute proceedings with any other offices against individuals.

DR. GAWLIK: Should not the members of the SD have been convinced by the reports on public opinion and the reports on the different spheres of life, especially after the occupation of the Rhineland until the beginning of the second World War, that everybody in Germany was expecting war?

HOEPPNER: On the contrary . . .

DR. GAWLIK: Please, will you first answer the question with "yes" or "no"?

HOEPPNER: No.

DR. GAWLIK: Now give the reasons please.

HOEPPNER: I said already, quite on the contrary. During that period there was hardly anybody in Germany who expected a war, and it was precisely these reports on the situation in different spheres of life, in the spheres, perhaps, of food production, economy, and industry, which showed that we were going to have armament to a limited extent, but not to an extent—but in no way gave any indications that we were working toward a war of aggression.

DR. GAWLIK: Now I come to the relation between the SD and the SS. Was the SD always an inseparable and important part of the SS?

I refer in this connection to the German transcript of 9 December where this has been alleged by the Prosecution.

Please answer my question.

HOEPPNER: No. I should like to give the following reasons for that: After the duty of the SS to help guard the speakers at meetings and to protect the Führer had ended, the new task was conceived and further developed by the staff of the SD, completely independent of the SS and the Reichsführer SS.

DR. GAWLIK: The Prosecution has furthermore stated "the General SS was the basis, the root from which the various branches grew."

Will you comment on that with regard to the domestic intelligence service?

HOEPPNER: That could not be true for the domestic intelligence service because only about 10 percent of the regular workers had come from the General SS, and because at least 90 percent of all the honorary workers and confidential agents of the SD were neither members of the SS nor wanted to be members of the SS, nor, viewed from the standpoint of the organization, were they desired for membership in the SS.

DR. GAWLIK: Was there in the SS a uniform high command under which the individual main offices operated jointly, or worked together automatically in such a way that each branch of the SS fulfilled a special task within the scope of the whole?

I refer to the transcript of 19 December 1945. State your opinion on this.

HOEPPNER: No.

DR. GAWLIK: Give me your reasons.

HOEPPNER: The only institution embodying the SS as a whole was the Reichsführer SS. The main offices which were under him were in no way high commands. Outwardly they represented various points of view on the same questions. They competed with each other, they were frequently jealous of each other. It was not even true that each of these main offices represented a branch which was necessary for the whole, as their duties, their jurisdictions overlapped. For instance, four or five offices shared the responsibility in questions of folkdom, and it was not possible, although this very suggestion was made by the Reich Security Main Office, to grant jurisdiction to one office only. Among these different main offices there was no directing office. The so-called main directing office had only to perform functions of the Waffen-SS. If any office had claimed that leadership, all the others would have rebelled against it immediately.

DR. GAWLIK: What was the influence of Himmler on the development of the tasks of the domestic intelligence service?

HOEPPNER: Himmler did not have a positive influence on the development of the specific tasks of the domestic intelligence service in the ordinary spheres of life. That task grew out of the work of the office, and it could have developed equally well in some other office. There were even a large number of cases in which the work suffered because it was entrusted to a man who was one leader

among several, and, therefore, it was not always possible to send reports to the competent office via the Reichsführer.

DR. GAWLIK: In order to prove a uniform will and a planned collaboration of the SD and SS the Prosecution referred particularly to the book by Dr. Best, *The German Police,* and the speech by Himmler about the organization and objectives of the SS and the Police. This concerns Documents 1852-PS and 1992-PS. Do you know the book by Dr. Best and do you know that speech by Himmler concerning the organization and objectives of the SS and Police?

HOEPPNER: On broad lines, yes.

DR. GAWLIK: Please give your opinion as to whether the relation between the SS and SD is described correctly in that book by Dr. Best and in the speech by Himmler?

HOEPPNER: This question essentially involves the clarification of the concept which in many speeches and publications was designated as a corps for the protection of the State, (Staatsschutzkorps), and this idea of a corps for protection of the State was expressed by Himmler and Heydrich very early, a little after 1936. Its contents changed, but although it appeared again and again in speeches, it was never really carried out. However, the individual parts of this so-called corps for protection of the State of Himmler's grew independently, developed independently; they were not a unit, so that we can say here that although it was indeed Himmler's wish to create this corps for the protection of the State, this idea never materialized.

DR. GAWLIK: Did the Higher SS and Police Leaders also have authority to issue orders to the SD, and did they have to supervise the activity of the SD? In this connection I refer to the trial brief against the Gestapo and SD, Page 12 of the English edition, and the trial brief against the SS, also Page 12 of the English edition.

HOEPPNER: The Higher SS and Police Leaders had neither authority to issue orders nor did they have to supervise the SD. They were merely representatives of the Reichsführer within their territories without having any actual or disciplinary jurisdiction over the Security Service. Attempts made in that direction, in connection with the above-mentioned corps for protection of the State, were particularly averted by the domestic intelligence service.

DR. GAWLIK: Now I come to the relation between the SD and the Party. What was the organizational relationship between the domestic intelligence service and the political leadership of the NSDAP?

HOEPPNER: The domestic intelligence service was an institution of the Party, but it did not belong to the organization of the political leadership. Therefore, no organizational connection existed.

The proper and definite duties of the domestic intelligence service were not given to it by the Party either. The task assigned to it by the Party, as I have already mentioned, had already been essentially completed in the years 1938-39.

DR. GAWLIK: Did the SD have the task of maintaining the Nazi leaders in power?

HOEPPNER: The Security Service had the task of...

DR. GAWLIK: Can you first answer the question with "yes" or "no"?

HOEPPNER: No.

DR. GAWLIK: Now please give me your reasons.

HOEPPNER: The Security Service had a different task. It had the assignment of observing the effects of the measures taken by the leaders of the State, the Party, the economy and the autonomous corporations, to determine what the people were saying about these measures, whether their results were positive or negative, and then to inform the leaders about its findings.

DR. GAWLIK: Was the domestic intelligence service the espionage system of the NSDAP? Here I refer to the trial brief against the SS, Pages 8a and 8b of the English edition.

HOEPPNER: No. First, the Security Service was not an espionage service at all. Secondly, it sent its reports to all principal offices, not only to those of the Party, but also to the leading offices of the State.

DR. GAWLIK: Now I come to the next topic of evidence, the relation between the SD and the Gestapo. Were the Gestapo and the SD a uniform police system which became constantly more closely connected?

I refer to the trial brief against the Gestapo and SD. What was the connection between the Gestapo and SD organizations with respect to aims, tasks, activities, and methods?

HOEPPNER: First, in answer to the first question: it was not a question of a uniform police system, since the Security Service and a police system have absolutely nothing to do with each other. The Security Service and the Secret State Police were two entirely different organizations. While the Security Service had developed from an organization of the Party, the Secret State Police was a continuation of an already existing institution of the State.

While the task of the Security Service was to get a general view of the various spheres of life or the specific forms of activity of other ideological groups, and regarded the individual cases merely as examples, it was the task of the Secret State Police on the basis of existing laws, ordinances, decrees, and so on, to deal

particularly with individual cases and to take preventive or prosecuting measures in an executive police capacity in continuation of an already existing State institution. While the Secret State Police worked with executive means, such as interrogations, confiscations, and so on, the Security Service never had executive powers.

DR. GAWLIK: Was it the task of the SD to support the Security Police as has been stated in decrees and other announcements, particularly in the circular letter released on 11 November 1938; in this connection I refer to Document 1638-PS.

HOEPPNER: No, that was incorrectly expressed. Perhaps I may comment briefly on that circular letter of 11 November 1938.

We are concerned here with the fact that for the first time an agreement had been made between the Security Service and an office of the State. The chief purpose of this agreement was that the Security Service was thereby officially and publicly recognized by an office of the State and that officials who worked in it could not, on account of this collaboration, be prosecuted for breaking their oath of silence, as had happened repeatedly up to then. At that time the agreement was made dependent on the fact that any State duty could be referred to. As, first of all, the Security Service hardly appeared in the public eye at that time in 1938, and the work in the field of public life had not yet been officially recognized by the Party and could, therefore, not be mentioned in the decree, Heydrich quoted the support of the Security Police, because no one outside could check that.

DR. GAWLIK: Did the SD have the task of watching the members of the Gestapo?

HOEPPNER: No.

DR. GAWLIK: Can we conclude from the fact that inspectors of the Security Police and SD were established that there was a connection between these two organizations?

HOEPPNER: No, the inspectors had a certain power of supervision over the organization in particular cases only. All directives, task assignments, and so forth, came from Berlin.

DR. GAWLIK: What was the relation of the Departments III with the offices of the commanders-in-chief and with the commanders of the Security Police and the SD?

HOEPPNER: I do not quite understand that question. Relation with whom?

DR. GAWLIK: With the Security Police.

HOEPPNER: The Departments III of the offices of the commanders and commanders-in-chief were departments in the same

way as the Department IV. They worked on Security Service tasks, whereas Department IV worked on State Police tasks. They were departments of the office of the commander-in-chief, and not parts or establishments of Amt III of the Reich Security Main Office any more than the Department 4 were establishments of Amt IV of the Reich Security Main Office.

DR. GAWLIK: Now I come to a short discussion of the individual war crimes with which the SD is charged. First, the Einsatzgruppen.

I refer to VI A among the facts offered in evidence in the trial brief.

Were the Einsatzgruppen and Einsatzkommandos which were used in the East a part of the SD?

HOEPPNER: No; these Einsatzgruppen and Einsatzkommandos were establishments of an entirely original type.

DR. GAWLIK: Was the organization of the domestic SD used for the activities of the Einsatzgruppen and Einsatzkommandos? That is something important.

HOEPPNER: That question, in the way it has been put, must be answered by "no." It is not true that any units of that organization were transferred to the Einsatzgruppen. If individual members of the SD entered the Einsatzgruppen or Einsatzkommandos, then it is comparable to military induction. Just as a civil servant who is drafted is assigned different tasks, or at least can be assigned them, this was likewise the case with the members of the SD. If the Einsatzgruppen had to perform Security Service tasks, such as making reports, the directives came to the Einsatzgruppen from Amt III.

DR. GAWLIK: Did the members of the SD and its subordinate offices obtain any knowledge about mass shootings and other crimes—war crimes or crimes against humanity—through the reports from the East, or by reports from the Einsatzgruppen?

HOEPPNER: Such reports from Einsatzgruppen were never forwarded to the subordinate offices in the Reich, so that the members of these offices could not have any knowledge of these incidents, either.

DR. GAWLIK: Was the SD responsible for the establishment, arrangement, guarding, and administration of concentration camps?

HOEPPNER: No.

DR. GAWLIK: Could you give me any reason for that answer?

HOEPPNER: There are no reasons for it. The Security Service never had anything to do with these matters because it lacked jurisdiction there.

DR. GAWLIK: Did the SD establish any concentration camps?

HOEPPNER: No.

DR. GAWLIK: Did the SD organize any concentration camps?

HOEPPNER: No.

DR. GAWLIK: Was the organization of the SD used for the guarding of concentration camps?

HOEPPNER: No.

DR. GAWLIK: Did the SD have authority for the commitment and treatment of concentration camp inmates?

HOEPPNER: No.

DR. GAWLIK: Did the domestic intelligence service receive an order from Himmler not to intervene in the case of clashes between Germans, and English and American fliers?

HOEPPNER: No, the Security Service could not have had any order, because it had no Police functions and there could have been absolutely no question of any intervention.

DR. GAWLIK: Did the domestic intelligence service set up summary courts martial in order to pass judgment on persons in special short proceedings?

This question refers to Item VI H of the trial brief.

HOEPPNER: Holding summary courts martial was not one of the functions of the SD at all, therefore not courts martial of this kind either, because that again would have been an executive measure which had nothing to do with the Security Service.

DR. GAWLIK: Did the domestic intelligence service, Amt III, execute people in concentration camps or keep them prisoners only on account of crimes which allegedly had been committed by their relatives? This question refers to Item VI J of the trial brief.

HOEPPNER: The Security Service had nothing to do with that.

DR. GAWLIK: Did the SD hold any third-degree interrogations? This question refers to Item VI L.

HOEPPNER: The Security Service did not carry out any interrogations at all, consequently not any with the third degree.

DR. GAWLIK: Will you briefly describe the aims, tasks, activities, and methods of the Group III A of the Reich Security Main Office, of which you were in charge at times?

HOEPPNER: It was the task of Group III A to observe the effects of legislation, administration of justice, and administrative measures on the German people, and compile these observations in the form of reports and make them accessible to executive

offices. It was furthermore the task of Group III A, and in particular Department III A 4, to give the executive offices a continuous picture of the general mood and attitude of the German population in regular reports.

DR. GAWLIK: Was membership in the SD voluntary, or the result of some legal decree?

HOEPPNER: That question cannot be answered by "yes" or "no." I might take my own group as an example. In my group, at the end, I had somewhat over 60 employees. About 75 percent of these worked there by legal obligation. For instance, all my four chiefs of departments had been transferred to the Security Service, ordered there on emergency service or detailed there. I believe that for the entire Security Service one could estimate that about 50 to 60 percent of the entire Security Service were working there on the basis of a legal obligation. That comparatively high number results from the fact that, first, at the beginning of the war a large number of regular workers had been inducted; secondly, that the scope of the work had been increased in extent, and that therefore men and in part women auxiliary workers had to be sent for service in the occupied territories; thirdly, that the entire work of the Security Service grew during the war, and the personnel had to render compulsory emergency service and so on, according to the legal measures that had been passed for this purpose.

DR. GAWLIK: Mr. President, I have no further questions.

THE PRESIDENT: Does the Prosecution wish to cross-examine?

MAJOR HARTLEY MURRAY (Assistant Trial Counsel for the United States): If the Tribunal please, Major Murray cross-examining for the United States chief prosecutor.

Witness, when did you become chief of Office III A in the RSHA?

HOEPPNER: In July 1944.

MAJOR MURRAY: Who was the chief of Amt III at that time and for some time prior thereto?

HOEPPNER: Amt III had only one chief, and that was the then Gruppenführer Ohlendorf.

MAJOR MURRAY: At times you substituted for Ohlendorf, did you not?

HOEPPNER: I believe the entire question did not come through. I heard only "at times you substituted."

MAJOR MURRAY: At various times during your career, you took Ohlendorf's place as chief of Amt III, did you not?

HOEPPNER: No. When I was in that office, Ohlendorf was always there. Moreover, there was no general deputy for him. When he was away on business the chiefs of the various groups represented him for their own spheres, but during the period while I was in Berlin, that happened very rarely.

MAJOR MURRAY: Do you know Dr. Wilhelm Hoettl, who was a member of Amt VI, RSHA?

HOEPPNER: May I ask for the name again, please? I did not understand the name.

MAJOR MURRAY: Perhaps I do not pronounce it properly—Dr. Wilhelm Hoettl, spelled H-o-e-t-t-l.

HOEPPNER: Hoettl? I met him here only for the first time.

MAJOR MURRAY: You do know that he held a responsible position in the SD, now that you have met him here?

HOEPPNER: No, I have not spoken to Hoettl here, either.

MAJOR MURRAY: With the permission of the Tribunal, I should like to read briefly from the affidavit of Dr. Wilhelm Hoettl, Document 2614-PS, dealing with the activities of the SD. This will be Exhibit USA-918. Dr. Hoettl executed this affidavit on 5 November 1945. I quote:

> "It was the task of the SD to inform its chief, Himmler, and through him the Nazi regime about all matters within Germany, the occupied territories, and the other foreign countries. This task was carried out in Germany by Amt III, domestic intelligence service, and abroad by Amt VI, foreign intelligence service."

Skipping a few lines:

> "For the task in Germany proper Amt III had organized a large net of informers who operated out of the various regional offices of the SD. This organization consisted of many hundreds of professional SD members who were assisted by thousands of honorary SD members and informers. These informers and honorary collaborators of the SD were placed in all fields of business, education, State and Party administration, *et cetera.* Frequently they performed their duties secretly in their place of work. This information service reported on the morale of the German people, on all the important events in the State, as well as on individuals."

Do you consider that a fair statement of the task of the SD?

[There was no response.]

THE PRESIDENT: Witness, answer the question, please. Witness, answer the question. Do you consider it a fair statement

of the work of the SD? No, you need not go on reading the rest of the document. Answer the question.

HOEPPNER: It is a mixture of truths and untruths. I feel that the way and manner in which this report judges the Security Service is somewhat superficial. It does not give the impression, according to this document, that Hoettl worked in the domestic intelligence service very long.

MAJOR MURRAY: You know, do you not, Witness, that your chief, Ohlendorf, was, in 1941 and 1942, the head of Einsatzgruppe D in southern Russia? You were informed of that, were you not?

HOEPPNER: Yes, indeed.

MAJOR MURRAY: You knew also, did you not, that these Einsatzgruppen were made up from members of the SD and of the Gestapo and of the Criminal Police?

HOEPPNER: I knew that members of these organizations were detailed there for special service.

MAJOR MURRAY: You knew that they were commanded by SD members, did you not?

HOEPPNER: The Einsatzgruppen and Kommandos were commanded by members of widely different branches, by members of the State Police, Criminal Police, and also the Security Police. I myself, moreover, was never on special service.

MAJOR MURRAY: I would like to refer, if the Tribunal please, to the affidavit of Ohlendorf. This is Document Number 2620-PS, to become Exhibit USA-919. This affidavit has not been used in evidence before. This affidavit of Ohlendorf, which is very brief, states:

> "The Einsatzgruppen and the Einsatzkommandos were commanded by personnel of the Gestapo, the SD, or the Criminal Police . . . Additional men were detailed from the regular Police—"

and dropping down a few lines—

> "Usually the smaller units were led by members . . ."

HOEPPNER: May I interrupt you? Excuse me, please.

It does not say here in the document that they were led by members of the regular Police. It says only that additional personnel was provided by the Order Police and the Waffen-SS.

MAJOR MURRAY: Yes, I skipped that. Skipping down a few lines:

> "Usually the smaller units were led by members of the SD, the Gestapo, or the Criminal Police."

So that actually members of the SD were leading these Einsatzgruppen in the East, were they not?

HOEPPNER: The affidavit states that members of the Security Service as well as the State Police and the Criminal Police were in charge of units of this kind.

MAJOR MURRAY: Now, as a matter of fact, the Einsatzgruppen officers wore SD uniforms in the performance of their tasks, didn't they?

HOEPPNER: Excuse me. I understood only a few words. The Einsatzgruppen wore these uniforms?

MAJOR MURRAY: The Einsatzgruppen officers wore the uniform of the SD while performing their duties in the East, is that true?

HOEPPNER: All members of the Einsatzgruppen wore field-grey uniforms and wore the SD insignia on the sleeve. That was one of the main reasons for the many misunderstandings which occurred, because members of the Security Police also wore this SD insignia. That applies to the special SS formation of the SD which was mentioned right in the beginning of today's examination. This confusion also arose because, beyond that, even those members of the Einsatzgruppen and Einsatzkommandos wore uniforms who were not SS members at all and who in peacetime had never worn a uniform in Germany proper. They were sent for special service as so-called uniformed personnel and received a service rank corresponding to their civil service grade.

MAJOR MURRAY: In any event, many members of the Einsatzgruppen were members of the SD and many of those officers wore the uniform of the SD while killing these people in the Eastern Territories; isn't that true?

HOEPPNER: I do not quite understand the meaning of the question. There were very few people from the SD detailed to these Einsatzgruppen or Einsatzkommandos, least of all from the three branches mentioned, and during their entire period of service these men and leaders wore the uniform with the SD on the sleeve.

MAJOR MURRAY: If the Tribunal please, I should like to bring into evidence another brief document, Document 2992-PS, Exhibit USA-494. This is a portion of that affidavit which has not previously been read into evidence. It is the affidavit of Hermann Friedrich Gräbe. I am sure the Tribunal will recall that affidavit where this German citizen recounted the SS and SD men shooting large numbers of helpless individuals, the document which was referred to by the Attorney General of Great Britain a few days ago.

In the first part of that affidavit Gräbe states:

"The SS man acting as the executioner on the edge of the pit during the shooting of Jewish men . . ."

THE PRESIDENT: Wait a minute. This document is in evidence already, isn't it?

MAJOR MURRAY: It is, My Lord, but not this particular portion of it referring to the SD. I did not intend to repeat the other portions but this portion refers specifically to the SD and it is only two sentences that I intend to read. Paragraph 1:

"The SS man acting as the guard on the edge of the pit during the shooting of Jewish men, women, and children, at the airport near Dubno, wore an SS uniform with a grey armband about 3 centimeters wide on the lower part of his sleeve, with the letters 'SD' in black on it, woven in or embroidered."

And dropping down to the last portion of the second paragraph:

"On the morning of 14 July I recognized three or four SS men in the ghetto whom I knew personally and who were all members of the Security Service in Rovno. These persons also wore the armband mentioned above."

It is a fact, is it not, Witness, that many of the members of these Einsatzkommandos were members of your SD organization?

HOEPPNER: I already said before that a few members of these Einsatzgruppen and Einsatzkommandos were members of the Security Service. It is not said here in any way that the people to whom reference is made in this document had anything to do with the domestic intelligence service; and if there was one among them who belonged to it—which is certainly not shown by the document, for it says merely that he wore a uniform with the SD insignia—then he had been detailed for that special service just as anyone else may be drafted into the Armed Forces. That is precisely the chief reason for a large number of mistakes which were made with that term SD, that even the members who were on special service all wore the same uniform.

MAJOR MURRAY: In any event, Ohlendorf was a member of the SD, was he not?

HOEPPNER: Ohlendorf was chief of Amt III but that had nothing to do with the fact that he also commanded an Einsatzgruppe. That Einsatzgruppe could just as well have been commanded by the chief of Amt IV or V, or by an inspector or anybody else. That has nothing to do with the activity of Ohlendorf as chief of Amt III.

MAJOR MURRAY: Now, Ohlendorf has testified that frequent reports were compiled by the Einsatzgruppen and sent back to the

headquarters. Did you see any of these reports while you were in the headquarters of RSHA?

HOEPPNER: No. That was not possible because at the time when I came up to Berlin most of the Einsatzgruppen from the East had been recalled. At any rate, no further reports were coming in, and I am entirely of the opinion that in Amt III, the domestic intelligence service, only a very few men saw the reports from the Einsatzgruppen.

MAJOR MURRAY: I would like to have shown to you a series of 55 weekly reports of the activities of the Einsatzgruppen, and, incidentally, the Einsatzgruppen are known as the Einsatzgruppen of the Security Police and the SD.

HOEPPNER: No, no; there were no Einsatzgruppen of the Security Police and the Security Service, but rather there were only the Einsatzgruppen A, B, C, and D in the East; and, indeed, there were good reasons for that.

MAJOR MURRAY: Before submitting that document to you, Witness, I would like to have you examine Document Number 3876-PS, which has already been admitted in evidence as Exhibit USA-808; I call your attention to the title page of that document, signed by Heydrich, which reads as follows:

> "I herewith enclose the ninth summary report concerning the activity of the Einsatzgruppen of the Security Police and the SD in the U.S.S.R. This report will be sent continuously in the future. Signed, Heydrich."

Aren't you mistaken, Witness, in saying that these were not known as Einsatzgruppen of the Security Police and SD?

HOEPPNER: No. These Einsatzgruppen figured as Einsatzgruppen A, B, C, and D. They were commanded by a deputy of the Chief of the Security Police and the SD with the army groups in question, or with an army.

The designation "Einsatzgruppen of the Security Police and the SD" is unfortunately wrong.

MAJOR MURRAY: Either Heydrich is wrong again, is he, and all the documents are wrong?

HOEPPNER: No, I do not want to say that the document is false, but I merely maintain that the expression is not correct. I ask you to look at the distribution list; it says there: "To the chiefs of Einsatzgruppen A, B, C, and D." Besides, the Einsatzkommandos were not called Kommandos of the Security Police and the SD, but, as far as I know, they had Arabic numerals from 1 to 12.

MAJOR MURRAY: This, of course, is a report of your chief, Heydrich, and I won't enlarge on the point. Turn now to Pages 31 and 32. It is at the bottom of Page 32 in Heydrich's . . .

HOEPPNER: One moment, please. There is no Page 31 or 32 in my document.

MAJOR MURRAY: It is a very short passage. I will read it to you:

"In White Ruthenia the purge of Jews is under way. The number of Jews in the part up to now handed over to the civil administration amounts to 139,000."

HOEPPNER: Yes.

MAJOR MURRAY *[Continuing.]:*

"In the meantime"—in the last sentence—"In the meantime, 33,210 Jews were shot by the Einsatzgruppe of the Security Police and the SD."

It doesn't say anything there about Groups A, B, C, or D, does it?

HOEPPNER: No, it says Security Police and SD. I only do not understand what that is supposed to have to do with the domestic intelligence service—Security Service.

MAJOR MURRAY: Except that Ohlendorf was the head of your service, wasn't he?

HOEPPNER: When he functioned as chief of Amt III—in Berlin; but during the time when he led the Einsatzgruppe D he was on special service, and the time on special service is treated exactly like the time of compulsory military service.

MAJOR MURRAY: Witness, are you informed of the fact that the SD was carrying on espionage activities in the United States prior to Germany's declaration of war against the United States?

HOEPPNER: I cannot imagine that the domestic intelligence service would have worked in the United States.

MAJOR MURRAY: I would like to offer in evidence, if the Tribunal please, Document Number 4053-PS, which becomes Exhibit USA-920. This document is a teletype message of the Foreign Office, dated 11 July 1941. I will read just one sentence from this one document:

"Reference teletype Number 2110 of 5 July from Washington. Herr RAM"—that was Ribbentrop, was it not?—"Herr RAM requests you to submit immediately a written report regarding who among those arrested in New York on suspicion of espionage worked with the Abwehr and who with the SD."

Witness, does not that look like the SD was carrying on espionage activities in New York long prior to the declaration of war on the United States?

HOEPPNER: One of the first questions which Herr Gawlik presented to me was whether the foreign intelligence service was also designated as SD. I said "yes," and further clarification showed that the domestic intelligence service and the foreign intelligence service were different organizations. Whether the foreign intelligence service, the foreign SD, Amt VI, had anything to do with this matter I cannot judge, because I never worked in Amt VI and understand nothing about these things.

MAJOR MURRAY: Of course, when they were all part of the SD I mean they were all members of the SD. I have no more questions.

THE PRESIDENT: Would you re-examine if you want to?

Did the Soviet prosecutor want to ask any questions?

CHIEF COUNSELLOR OF JUSTICE L. N. SMIRNOV (Assistant Prosecutor for the U.S.S.R.): Mr. President, I did want to put a few questions to the witness, but these questions are in connection with one new document—quite an interesting document—which we received only today, and for this reason we have not had the translation into English made up. Therefore, I do not know whether it would be appropriate for me to put this question now when I do not have an English translation to present to the Tribunal.

THE PRESIDENT: Perhaps we could do it in the morning. It would be translated by then. Perhaps you could do it in the morning?

MR. COUNSELLOR SMIRNOV: Thank you very much, Mr. President, yes.

THE PRESIDENT: Dr. Gawlik, would you re-examine him now?

DR. GAWLIK: Mr. President, I do not know whether I will not also have more questions after the new document is presented. That, of course, I cannot judge now.

THE PRESIDENT: Well, if there is anything that arises from the new document, you could put the questions later on. You will have a further opportunity if necessary.

DR. GAWLIK: Yes.

[Turning to the witness.] Were the SS uniforms with the SD sign also worn by persons who had nothing to do with the SD?

HOEPPNER: Yes, I have explained that repeatedly.

DR. GAWLIK: Were the SS uniforms with the SD patch also worn by persons who had nothing to do with the SS?

HOEPPNER: Yes, indeed.

DR. GAWLIK: Can you make any explanation as to why individuals who had nothing to do with the SD wore the SD patch?

HOEPPNER: First, because all members of the Security Police also wore that uniform; secondly, because any man at all who served with an Einsatzkommando or an Einsatzgruppe wore a uniform and the only uniform was the field-grey SS uniform with the SD patch.

DR. GAWLIK: Why did they wear the SD patch?

HOEPPNER: Because it belonged to the uniform.

DR. GAWLIK: I have no more questions.

THE PRESIDENT: Have you got this document before you, 3867-PS?

HOEPPNER: 3867-PS?

THE PRESIDENT: Yes. You see what it says there:

"I herewith enclose the ninth summary report concerning the activity of the Einsatzgruppen of the Security Police and the SD in the U.S.S.R."

That is the second paragraph; you see that—describing the report?

HOEPPNER: In my document book there are several loose documents. Is it the one of 27 February?

THE PRESIDENT: 27 February 1942, Page 17. Have you got it?

HOEPPNER: Yes, I have it.

THE PRESIDENT: First of all you see it says "... regarding report Number 9 concerning the activity of the Einsatzgruppen of the Security Police and the SD in the U.S.S.R."—and then the first enclosure. Heydrich encloses the ninth summary report concerning the activity of the Einsatzgruppen of the Security Police and the SD in the U.S.S.R.

HOEPPNER: Yes.

THE PRESIDENT: And you said, as I understood it, that you did not understand why the SD were there, because the Einsatzgruppen were A, B, C, and D?

HOEPPNER: Yes, indeed.

THE PRESIDENT: That is what you meant, wasn't it, that you could not explain why the SD were there?

HOEPPNER: Yes, indeed.

THE PRESIDENT: Well, will you explain why when distribution is set out it is to be distributed to the chiefs of the Einsatzgruppen A, B, C, and D, and also to the commanders of the Security Police and the SD?

HOEPPNER: May I make a statement concerning this report?

If Einsatzgruppen and Einsatzkommandos of the Security Police and the SD are mentioned, then this designation is not accurate in this report, because that designation did not exist in the East. There were only Einsatzgruppen A, B, C, and D, and Einsatzkommandos Number 1, 2, 3, and so on.

THE PRESIDENT: Assuming that that is so, why then should the report be sent to the commanders of the Security Police and the SD in a separate distribution to them as well as the distribution to the chiefs of the Einsatzgruppen unless the SD has something to do with it?

HOEPPNER: I believe I was misunderstood somehow. It is a report about the activities of all the Einsatzgruppen which was summarized by the Chief of the Security Police of the SD and which then went to the individual Einsatzgruppen, as I assume, so that they would know what had happened in other Einsatzgruppen, and so Einsatzgruppe D would know what had happened in Einsatzgruppen A, B, and C.

THE PRESIDENT: Yes, it isn't only sent to the Einsatzgruppen A, B, C, and D; it is also sent to the commanders of the Security Police and SD. What I am asking you is: Why is it sent to the commanders of the Security Police and the SD if they had nothing to do with it?

HOEPPNER: Yes—probably Heydrich wanted the Commander-in-Chief of the Security Police and SD in Kraków and the Higher SS and Police Leaders to be informed of what was done in these Einsatzgruppen, because it was also sent to the Higher Police Leaders in Breslau and Dresden, *et cetera,* who certainly had nothing to do with the activity of the Einsatzgruppen—to the Reich Defense Commissioners in Königsberg, Stettin, Breslau.

THE PRESIDENT: Well, then, your answer is that Heydrich made a mistake when he described it as the activity of the Einsatzgruppen of the Security Police and the SD; and when they sent out and distributed it to the commanders of the Security Police and SD, it was merely a matter of information; is that it?

HOEPPNER: Yes, indeed.

THE PRESIDENT: Do you see the final distribution on Pages 46 and 47 or is that the distribution of a different report; it is a report on the 23rd of April 1942.

HOEPPNER: Yes, 23 April 1942.

THE PRESIDENT: And will you look at Pages 46 and 47?

HOEPPNER: Yes, indeed.

THE PRESIDENT: About eight lines down, you see, it was distributed to Major General Kaltenbrunner, Vienna.

HOEPPNER: Yes, indeed.

THE PRESIDENT: And the last line but two, it was distributed to Governor General, Reich Minister, Dr. Frank.

HOEPPNER: I cannot find Reich Minister Dr. Frick.

THE PRESIDENT: Frank—Frank, I said.

HOEPPNER: Yes, for the attention of Oberregierungsrat Dr. Schepers.

THE PRESIDENT: And the same is true on Page 18 of the report of the 27th of February 1942.

HOEPPNER: 27 February.

THE PRESIDENT: Yes, on the 27th of February 1942, it was also distributed to the same people?

HOEPPNER: Yes, indeed.

THE PRESIDENT: The Tribunal will adjourn.

[The Tribunal adjourned until 2 August 1946 at 1000 hours.]

ONE HUNDRED AND NINETY-THIRD DAY

Friday, 2 August 1946

Morning Session

[The witness Hoeppner resumed the stand.]

MR. COUNSELLOR SMIRNOV: Witness, I request that you explain some of the testimony which you gave yesterday. Please give me very brief answers. First, you said yesterday that the SD had nothing to do with the working out of the plans of aggression and was not even aware of such plans.

HOEPPNER: Yes.

MR. COUNSELLOR SMIRNOV: You further stated that the SD since 1934 and up to 1939, in other words during the period of the organization of the RSHA, was engaged in activities which were very far removed from carrying out any police functions and actually had the nature of a scientific research character; is that correct?

HOEPPNER: I did not talk of scientific problems.

MR. COUNSELLOR SMIRNOV: No, I said of a scientific research character. That is how you expressed it yesterday. Is that correct?

HOEPPNER: I explained that the SD had two tasks, one was the work of ascertaining living conditions in Germany and the other was more of a statistical and research nature directed against other philosophies of life.

MR. COUNSELLOR SMIRNOV: That is clear. Thank you. You further stated that the SD had no relations whatsoever to Crimes against Peace and Crimes against Humanity, is that correct?

HOEPPNER: Yes.

MR. COUNSELLOR SMIRNOV: Mr. President, I would like the permission of the Tribunal to submit the original of a German document from the archives of the main office of the SD, which is a document captured by the Red Army in the Berlin SD office and refers to plans concerning the invasion of Czechoslovakia.

Kindly follow me, Witness, while I quote from the document in the Russian translation:

"Communication; Berlin; June 1938; top secret. Subject: Employment of SD in Czechoslovakia."

The text follows:

"The SD should prepare to start its activity in case of complications between the German Reich and Czechoslovakia.... The manifold planning and the preparation of the operational staff for mobilization should be effected on the basis of approval..." (USSR-509)

THE PRESIDENT: Stop. You read out a date of June 1938. I can't see that at the head of the document.

MR. COUNSELLOR SMIRNOV: June 1938, yes.

THE PRESIDENT: It doesn't appear in the copy at the head of the document. Does it appear somewhere else?

MR. COUNSELLOR SMIRNOV: Your translation probably does not have it, Mr. President. The original has it. We submitted copies of two different documents and I am afraid the mistake might have been caused by the fact that your translation is not the translation of the document which I am submitting right now. We submitted copies of two different documents—two different translations.

THE PRESIDENT: Either it is an entirely different document or else some parts are omitted. The date is not on the document.

Go on. Go on.

MR. COUNSELLOR SMIRNOV:

"The SD follows, wherever possible, directly behind the advancing troops and fulfills duties similar to those in the Reich, which are the security of political life and at the same time the security as far as possible of all enterprises necessary to the national economy and so, also, of the war economy.

"In order to achieve this purpose, we suggest the division of the country into larger territorial units, Oberabschnitte and smaller territorial units, Unterabschnitte... the latter to be subdivided into Aussenstellen so that the members of the SD" —I draw your attention to the words "members of the SD"— "intended for employment in Czechoslovakia, can be immediately assigned to their tasks."

This document shows, therefore, that the SD was not only well-informed of the plans, but had also actively taken part in the elaboration of these plans of aggression. I am asking you, Witness, if this excerpt shows that the SD was not only aware of the plans of invasion and aggression but also that it took an active part in working out the plans?

HOEPPNER: May I first say something about the document?

MR. COUNSELLOR SMIRNOV: I would like you to answer briefly, first. Answer "yes" or "no." Explain later, please.

HOEPPNER: From the document, it is obvious that it is only a draft . . .

MR. COUNSELLOR SMIRNOV: We will talk about that a little later. You will see, then, that this deals with something else. I refer to the excerpt which I read. Do you not see evidence there that the SD was both informed and took an active part in the plans of aggression?

HOEPPNER: I said yesterday that the Domestic and Foreign Information Services are two different organizations. The domestic . . .

THE PRESIDENT: Witness, we do not care what you said yesterday. We want to get your answer today. You were asked a question which can be answered by "yes" or "no." You can explain afterwards.

HOEPPNER: The document has nothing to do with the Domestic Information Service.

MR. COUNSELLOR SMIRNOV: In that case, I would like you to look on Page 3 of the document. You testified yesterday that the SD had nothing to do with the staffing of the Einsatzkommandos. I am going to read an excerpt here. Perhaps you will find an answer there. It is Item II:

> "The staffing of the offices of the SD"—I draw your attention to the "offices of the SD"—"should be effected with the following considerations: 1. According to the point of view of the SD . . ."
>
> Does that not prove . . .

THE PRESIDENT: It is being read too fast. You know the translators do not have time.

MR. COUNSELLOR SMIRNOV: Thank you, Mr. President; I shall speak more slowly.

[Turning to the witness.] Does not the excerpt that was just read show that the Einsatzkommandos were staffed according to the demands of the SD? It is said here that the staffing is effected according to the point of view of the SD.

HOEPPNER: Excuse me. It was apparently translated incorrectly. Your question does not make sense to me.

MR. COUNSELLOR SMIRNOV: It seems to me the question is quite clear. It is said here: "The staffing of the offices of the SD should be effected with the following considerations . . ." Please look at the text of the document.

HOEPPNER: In my text there is absolutely nothing concerning this.

MR. COUNSELLOR SMIRNOV: 202(a), Page 3?

HOEPPNER: Yes.

THE PRESIDENT: To which words are you referring now?

MR. COUNSELLOR SMIRNOV: I am referring to Section II, Mr. President.

THE PRESIDENT: You must go slowly. You simply say Page 3. It happens not to be on Page 3—on our Page 3. It is on Page 2. How do you expect us to find it when you refer to it that way? It is Paragraph II then, at the start.

MR. COUNSELLOR SMIRNOV: It is Section II, Mr. President; there is Roman numeral II in front of the section.

What answer will you give then, Witness? What answer will you give me with regard to manning the staffs? Were they not to be staffed according to the demands of the SD?

HOEPPNER: From the paragraph, it is evident only that it was requested that the SD should keep men in readiness, should be ready itself, but not that the SD asked to have men kept in readiness.

MR. COUNSELLOR SMIRNOV: In that case, I should like to ask you to turn to Section III. Mr. President, please turn to Section III. It is Page 4 of the Russian text. I quote from III:

> "The groups detailed for Einsatz from the Reich"—pay attention to the words 'Einsatz' and 'groups' which appear for the first time in this document—"will be collected in a subsector corresponding to their intended sphere of activity, as starting or distribution centers, where they will receive the material on hand."

Then I omit the next paragraph and pass to the next page of the Russian text which follows right after the list of cities. It is Page 4 of the English text:

> "As soon as any district is free from the enemy, that is, when it is occupied, the allocated groups are immediately sent to the district center following the advancing troops. At the same time, the groups which are intended for the next district still in enemy hands will follow along in order to feel their way."

Will you deny after this that it was precisely the SD which staffed the first Einsatz groups?

HOEPPNER: From this document it can be seen only that the SD main office at that time had prepared this group.

MR. COUNSELLOR SMIRNOV: If this does not convince you, then I would like you to turn . . .

THE PRESIDENT: You must go more slowly. We will not hear what the witness says if you interrupt him during the time it takes for the translation to come through. It it impossible for us to understand it.

MR. COUNSELLOR SMIRNOV: I beg your pardon, Mr. President. I shall go more slowly. I stated that if this does not convince the witness, that it was precisely the SD that helped to staff these operational groups, then I would be obliged . . .

THE PRESIDENT: Wait a minute. Then the witness said something about Einsatz groups. What did you say about Einsatz groups?

HOEPPNER: The question was whether I am now convinced that the Einsatz groups were being prepared beforehand, and I answered that . . .

THE PRESIDENT: No, you were not asked about Einsatz groups at all. You were asked about the SD.

HOEPPNER: I was asked whether the SD had prepared the Einsatz groups beforehand, and I said that from the document it is evident that the SD main office had prepared these groups.

MR. COUNSELLOR SMIRNOV: Please look at Paragraph V—Section V—entitled "Preparatory Measures," Page 5 of the English text.

HOEPPNER: Yes.

MR. COUNSELLOR SMIRNOV: Mr. President, I want to quote Section V, "Preparatory Measures."

> "Preparatory Measures; demarcation of the spheres of activity of the SD and the Gestapo: (a) in the Reich; (b) in occupied territory.
>
> "Suggestion: Measures in Germany are carried out under the guidance of the Gestapo and with the assistance of the SD. Measures in the occupied regions are carried out under the leadership of the senior officer of the SD. Gestapo officials are assigned to certain operations staffs. It is important that, as far as possible, similar preparations, training, and the use of materials should be conducted in the Gestapo as in the SD."

Would you not say that this shows that it was precisely the SD that took the leading part in the Einsatzkommandos and that the Einsatz groups carried on their criminal activity under the guidance of SD officials?

HOEPPNER: I read nothing here about criminal activity. And as far as the SD is concerned I would like to refer to the first answer, that it had nothing to do with the Domestic Information Service.

MR. COUNSELLOR SMIRNOV: It says SD there . . .

THE PRESIDENT: The man had not yet finished his answer. We do not know what his answer is. Now repeat your answer.

HOEPPNER: I said that I read nothing about criminal measures in the document, and I said previously that the document had nothing to do with Domestic Information Services.

MR. COUNSELLOR SMIRNOV: It says there SD. Can you deny the term used by the document?

HOEPPNER: The word "SD" means many things.

MR. COUNSELLOR SMIRNOV: But it seems to me that in this connection the term is used in precisely the sense in which the authorities in Germany had used the term. The German officials understood the terms they used, did they not?

HOEPPNER: Yes, but it is about the Foreign Information Service.

MR. COUNSELLOR SMIRNOV: I would like you to look at the continuation of the same quotation, Number 2, entitled, "Establishment of Files in Section III/225 of the Main Office."

"(a) Collecting and utilization of all available materials of the SD Oberabschnitt is concentrated in Section III/225.

"(b) In establishing duplicate local files for each region, one copy remains with the central department while the second is sent to the operations staff appointed to the region . . ."

I am stopping right there, and would like you to pay special attention to Item (c):

"Files must have notations such as these: 'To arrest,' 'to liquidate,' 'to remove from office,' 'to place under observation,' 'to confiscate,' 'police surveillance,' 'deprivation of passport,' *et cetera.*"

Do you not think that when the filing department of the SD made a note like these on the cards of specific persons, such as to liquidate, to arrest, that the SD was participating in crimes against humanity?

HOEPPNER: I can only repeat that the document has nothing to do with the Domestic Information Service of the SD.

MR. COUNSELLOR SMIRNOV: Did I understand you correctly yesterday to say that you deny that there was any liaison or relationship between the SD and the SS units?

HOEPPNER: Yes.

MR. COUNSELLOR SMIRNOV: I would like you to look at the end of this plan, the last paragraph, Number VII:

"It is necessary that an SS unit or Totenkopf unit be ready for disposal for special purposes."

After seeing that, do you still deny that there was any direct relation between the SD and the SS units and the organization of the activity of the Einsatz groups?

HOEPPNER: From this paragraph, in any case, it is not evident.

MR. COUNSELLOR SMIRNOV: In that case, how should we interpret the sentence which I just read?

HOEPPNER: From this paragraph one can only deduce that if such an Einsatz group was put to use, a special SS troop was to be present. If a unit of some other civilian agency marches into this territory and a military unit is put at its disposal, then from that one cannot conclude that there was some sort of connection between this military unit and the civilian agency. But I should like to repeat once more that this document shows only that it is a draft project of an official—of an assistant official—of an assistant official who did not even—I stress that this is a draft of an assistant official which was not even countersigned by the expert, not to speak of the department head, the central department head, office head, or main office head.

MR. COUNSELLOR SMIRNOV: In that case, it appears that you claim that the document just shown you is merely a draft?

HOEPPNER: It is only the draft of the assistant official of III/225, which he initialled 29 June 1938, and the head of Department III/22 did not sign it, nor did the Central Department chief of III/2 do so, nor did the chief of Amt III sign it.

MR. COUNSELLOR SMIRNOV: Mr. President, to show that the witness' testimony is not correct, I would like you to turn to a document signed by Schellenberg, Chief of the Central Department I/1, and to the chart which you will find in the original. It shows that even the chiefs of the Einsatz commands were appointed . . .

HOEPPNER: May I say something?

MR. COUNSELLOR SMIRNOV: Just a minute. Let me read . . .

THE PRESIDENT: Just wait a minute. Just wait a minute.

Colonel Smirnov, the Tribunal would like you to read on from the place you had got to in Paragraph V, so that the document may be translated, and translated now, at once. You had got just to the place where it speaks of files, and at the end of "files," Paragraph 2 . . .

MR. COUNSELLOR SMIRNOV: That is right, Mr. President. Do you want me to start reading from point (b) or from point (c)?

THE PRESIDENT: Point 3.

MR. COUNSELLOR SMIRNOV: Yes. "In establishing duplicate local files for each region . . ."

THE PRESIDENT: That is not what I meant. You had read Paragraph V, Roman V, down to the end of 2, the last words of which are "deprived of passports, *et cetera.*" The next paragraph is 3, small 3, Arabic 3—"It is imperative to speed up . . ."

MR. COUNSELLOR SMIRNOV: That is right, Mr. President.

THE PRESIDENT: We want the whole of the document from there.

MR. COUNSELLOR SMIRNOV: Yes, Mr. President.

"It is imperative to speed up the obtaining of necessary economic and political materials, such as maps, dictionaries, stationery, and office supplies. . . .

"5. Allocated members and agents of SD have to undergo a training course in order to get acquainted with the language and with the general conditions of life in Czechoslovakia. However, it might be advisable to train only persons appointed for the subsections as heads of foreign branches and managers of enterprises in order not to allow the number of persons becoming acquainted with the preparations to be too great.

"6. Release from military conscription of the appointed persons.

"7. Elaboration of plans, (a) for carrying out the task mentioned in Paragraph III 5; (b) for notification in due time, of the persons mentioned in Paragraph III 5, II 1 (d), and II 2 (c) before invasion in order to give them the possibility of hiding to avoid arrest and deportation and to enable them to fulfill their missions.

"8. Providing necessary passes in due time for entering zones of operation in order to secure a free passage and first-class living and working accommodations."

Shall I read Paragraph VI, Mr. President?

THE PRESIDENT: Yes.

MR. COUNSELLOR SMIRNOV: "VI. Miscellaneous. It is suggested that wherever possible only trained military people be employed as:

"1. In the initial stages guerilla and partisan warfare will probably have to be reckoned with.

"2. For that reason arms will be necessary: carbines, pistols, hand grenades, gas masks, and if possible light machine guns.

"3. Relations in the zone of military operation demand appropriate conduct.

"VII . . ."

THE PRESIDENT: You have read VII already. But you better go back now to III, Paragraph 5, which I think you have not read and which just has been referred to.

MR. COUNSELLOR SMIRNOV: Yes, Mr. President.

"Training of special agents (beforehand) from persons of German extraction living in Czechoslovakia (mentioned in Item II 1 (d) who are to take over the internal protection of the most important enterprises for the purpose of preventing sabotage on the part of Czech organizations and offices."

THE PRESIDENT: Now I think you better go back to II, Paragraph 2 (a), "Training of suitable persons."

The interpreting division had better have the original documents in German and read the passages which I will indicate to them.

I think you can go on, Colonel Smirnov, because this would be checked over in the translating division. The transcripts will be checked over against the original document.

Now, you were reading II, Paragraph 2 (a), beginning with the words, "Training of suitable persons," were you not?

MR. COUNSELLOR SMIRNOV: That is right, Mr. President. May I continue?

THE PRESIDENT: Yes.

MR. COUNSELLOR SMIRNOV: "Besides"—interpreting verbatim from the Russian text—"besides staff members of the SD we should also try to employ honorary workers, because German offices should not be deprived of proper personnel, and it may be necessary that other frontier regions should take similar measures to provide for the necessary personnel.

"(b) Measures concerning Item II 1 (a) are necessary, for it may be found inexpedient to take people from the frontier regions for these new organizations, as an increase of work in these regions is expected anyhow."

THE PRESIDENT: I don't think you need read that. The Tribunal directs that the original documents as read into the transcripts, the shorthand notes, shall be checked over by the translating division against the original German text.

MR. COUNSELLOR SMIRNOV: Yes, Mr. President, we shall do it today.

THE PRESIDENT: The Tribunal direct that the original German document shall be retranslated into the other languages, namely, into English, into French, into Russian.

MR. COUNSELLOR SMIRNOV: Yes, Mr. President.

THE PRESIDENT: Now will you turn to the document which follows the document you have been reading and which appears to

be some sort of letter from an Oberführer of the SS? It is addressed to Dr. Best.

MR. COUNSELLOR SMIRNOV: Yes, Mr. President. Shall I read the whole document or just the first paragraph?

THE PRESIDENT: You better read the first paragraph, anyhow.

MR. COUNSELLOR SMIRNOV: Yes.

It is Page 9, Witness, "III/225; to SS Oberführer, Dr. Best, Berlin."

HOEPPNER: Yes, I am reading it. I have it.

MR. COUNSELLOR SMIRNOV: The contents follow:

"Introduction of the Einsatz of the Gestapo and of the SD, Reichsführer SS in the territory of Czechoslovakia.

"The suggestion to introduce the Gestapo and SD, of which 12 detachments were provided for along the Czechoslovakian frontier, will be subject to some modification as a result of the new situation arising from the fact that the Czechs may cede the Sudeten territory. Since some of the detachments will not be employed in the districts which will be ceded, we offer the following changes."

Shall I continue the quotation, Mr. President?

THE PRESIDENT: You don't need to read the rest. But is that document dated?

MR. COUNSELLOR SMIRNOV: There is no date here, but there is a date on another document, which I consider very important and which I would like the Tribunal's permission to submit. The document which is addressed to Dr. Best has no date, but the next document has a date, and it is the following document that I consider extremely important. I would like the Tribunal's permission to submit it. It is a very short document, signed by Schellenberg:

"Berlin, 13 September 1938, State Chancellery I 113, to the Chief of Amt III, SS Oberführer Jost or deputy.

"Contents: Organizational Chart of the Einsatzkommandos."

Omitting the next sentence, the text reads:

"According to the regulations of the above-mentioned letter, I enclose herewith a photostatic copy of the Einsatzkommandos organizational chart. The chart in its present form has been prepared by Department C.

"(Signed) The Chief of Central Department I 1 a B, SS Hauptsturmführer Schellenberg."

Mr. President, at this point I should like you to look at the chart which is attached, and which at that time already reproduced very correctly the organization of the Einsatzkommandos. You have all the details of the organization there, Einsatzstab K, Einsatzstab L,

and showing 11 different units, and among them the leading collaborators of Einsatzstab K. In the second column, you can find that already at that time the chief of the gas cars to be put into effect later was included: Rauff, the man to whom later all the reports about the activity of the gas chambers and the special death wagons were directed. They have been read here earlier.

THE PRESIDENT: I do not see that on the chart.

MR. COUNSELLOR SMIRNOV: It is in the second column. Rauff, Mr. President.

THE PRESIDENT: Yes. But can't you show me where it is?

MR. COUNSELLOR SMIRNOV: Yes, Mr. President. There it is. *[Indicating.]*

[The document was handed to the President.]

THE PRESIDENT: But Colonel Smirnov, there must be some words on the document which indicate what you are saying.

MR. COUNSELLOR SMIRNOV: I think, Mr. President, that what happened is to be explained by the inaccuracies of the translation. You see, I just drew your attention to the name Rauff, the man who was mentioned there, to whom later the reports about gas cars were directed. And there he is. The post had been prepared and foreseen in that chart.

THE PRESIDENT: What is his name?

MR. COUNSELLOR SMIRNOV: Rauff, Mr. President. As early as 1939 we see his name and the post which he was to occupy. This is why I want to draw your attention to that.

May I continue the interrogation?

THE PRESIDENT: Colonel Smirnov, the Tribunal would like to have photostatic copies of this document.

MR. COUNSELLOR SMIRNOV: Yes, Mr. President; we have 10 copies.

THE PRESIDENT: We anticipate that you are going to give the document to the witness and examine him upon it.

MR. COUNSELLOR SMIRNOV: Yes, Mr. President. The witness has it before him already.

HOEPPNER: Yes; I have a photostatic copy here.

MR. COUNSELLOR SMIRNOV: Mr. President, I should like to ask the witness the following question.

Witness, tell me this. Did not the confidential agents of the SD make and keep a list of persons who were to be annihilated or exhausted by hard labor?

HOEPPNER: Is the question being asked with reference to this document?

MR. COUNSELLOR SMIRNOV: In connection both with the document and with your knowledge of the situation.

HOEPPNER: I do not know whether lists were compiled.

MR. COUNSELLOR SMIRNOV: Mr. President, I am asking your permission to submit . . .

THE PRESIDENT: The witness has not answered.

Will you answer the question?

HOEPPNER: I said that I did not know whether such lists were made.

MR. COUNSELLOR SMIRNOV: Mr. President, I request your permission to submit the second German document, which does not concern the leading man of the SD.

THE PRESIDENT: Colonel Smirnov, we wanted you to ask the witness some questions so as to explain the chart. We have only just seen the chart. Have you no questions to ask on the chart?

MR. COUNSELLOR SMIRNOV: Yes, Mr. President, I will ask these questions.

Do you have the chart before you, Witness?

HOEPPNER: I have the photostatic copy of the manuscript chart.

MR. COUNSELLOR SMIRNOV: No, I am talking about the photostatic copy of the document. They are going to hand you the original.

[The document was submitted to the witness.]

Do you recognize the names of the collaborators mentioned in the chart?

HOEPPNER: Yes.

MR. COUNSELLOR SMIRNOV: Who was Jost?

HOEPPNER: Jost was the chief of Amt III, the Foreign Information Service in the then SD main office, and he had been the first chief of Amt VI of the Foreign Intelligence Service.

MR. COUNSELLOR SMIRNOV: Anyway, in 1938 he was a member of the SD?

HOEPPNER: Yes, he belonged to the SS special formation, SD, and was chief of the Central Department III of the SD main office.

THE PRESIDENT: Wait a minute, I thought you told us the SS had no connection with the SD. You are now telling us that this man was head of the SS department, SD, are you not?

HOEPPNER: There must have been a false translation. Mr. President, may I repeat my answer?

THE PRESIDENT: Yes, repeat your answer.

HOEPPNER: Jost was the head of Central Department III, Foreign Intelligence Service, in the former SD main office. He was later the first chief of Amt VI, the Foreign Intelligence Service, the predecessor of Gruppenführer Schellenberg, who has been heard already by this Tribunal.

MR. COUNSELLOR SMIRNOV: Are you acquainted with the name of Ehrlinger?

HOEPPNER: Yes.

MR. COUNSELLOR SMIRNOV: Who was Ehrlinger?

HOEPPNER: I know Ehrlinger only from a later period. He was the last chief of Amt I of the Reich Security Main Office.

MR. COUNSELLOR SMIRNOV: He was also a member of the SD, was he not?

HOEPPNER: He also belonged to the SS special formation SD.

MR. COUNSELLOR SMIRNOV: Do you know the name of Rauff? Do you recognize that?

THE PRESIDENT: The translation came through then to us that he was a member of the SS-SD.

HOEPPNER: He belonged to the SS special SD formation about which we spoke in detail yesterday; that is to say, the merger of SS members who were in the Security Service, in the Gestapo, and in the Criminal Police; that is to say, not all members of these, but only those who belonged to the SS, and also those who were honorary co-workers belonging to the SS, and also some other officers who worked with the Security Police—for instance, the border Police and customs investigations officials, and later a large number of Landräte, too.

MR. COUNSELLOR SMIRNOV: May I continue, Mr. President?

THE PRESIDENT: Go on.

MR. COUNSELLOR SMIRNOV: Thank you.

[Turning to the witness.] Do you know the name of Rauff?

HOEPPNER: Yes.

MR. COUNSELLOR SMIRNOV: What was he at that time?

HOEPPNER: Rauff at that time was in charge of the motor cars belonging to the Security Service, as far as I remember today. I should like to say that at that time I had no direct connection with the control office in Berlin, as the main office of the SD was so organized at that time, that between the lower divisions and the

main office there was an organizational set-up, Oberabschnitt, which was abolished in September 1939.

MR. COUNSELLOR SMIRNOV: Mr. President, the American Prosecution kindly gave me the documents already submitted to the Tribunal which show that subsequently orders concerning death vans were addressed specifically to Herr Rauff. These are the documents which I am now passing on to the Tribunal. These documents have been submitted already. I am merely reminding you of them.

And now, Witness, I should also like you to look at the circles showing Einsatzkommandos in the chart. Do you recognize the names mentioned there?

HOEPPNER: I do not know yet which names you mean.

MR. COUNSELLOR SMIRNOV: I am talking about the circles at the bottom, Einsatzkommando 2, 3, 8, 9, and others. Have you found the place?

HOEPPNER: Is that another document?

MR. COUNSELLOR SMIRNOV: No; that is precisely the same document.

HOEPPNER: On the manuscript document which I have, I can see no such circles. It must be another document attached to another letter.

MR. COUNSELLOR SMIRNOV: Please look at the circles around "Einsatzkommando." Do you recognize any of the names within those circles?

HOEPPNER: No. On the document which is appended to the letter signed by Obersturmführer Scheidler?

MR. COUNSELLOR SMIRNOV: Do you recognize the names there? Particularly, did you know Gottschalk?

HOEPPNER: No.

MR. COUNSELLOR SMIRNOV: Dr. Lehmann?

HOEPPNER: No.

MR. COUNSELLOR SMIRNOV: Schulze?

HOEPPNER: I gather that there must be a confusion of names there, and it should be "Schulz."

MR. COUNSELLOR SMIRNOV: That is right, "Schulz."

HOEPPNER: Yes, I know. Here we have "Schulze."

MR. COUNSELLOR SMIRNOV: That is a mistake. I have it as "Schulz."

HOEPPNER: I know Schulz.

MR. COUNSELLOR SMIRNOV: Was he a member of the SD?

HOEPPNER: No. I think that he was at that time a State Police chief somewhere in northern Germany.

MR. COUNSELLOR SMIRNOV: Do you know Biermann?

HOEPPNER: Not personally, but I have heard his name.

MR. COUNSELLOR SMIRNOV: Who was he?

HOEPPNER: I beg your pardon. I think that he was then a chief of the State Police. Later he became an inspector of the Security Police and the SD.

MR. COUNSELLOR SMIRNOV: Do you know Höhnscheid?

HOEPPNER: I do not know Dr. Heinrich.

MR. COUNSELLOR SMIRNOV: No—Höhnscheid?

HOEPPNER: EK 10, Einsatzkommando 10.

MR. COUNSELLOR SMIRNOV: No, Einsatzkommando 4, Höhnscheid.

HOEPPNER: I do not know him.

MR. COUNSELLOR SMIRNOV: Hoffmann?

HOEPPNER: No.

MR. COUNSELLOR SMIRNOV: I do suppose that you know Stahlecker, though.

HOEPPNER: I knew him by name but not personally.

MR. COUNSELLOR SMIRNOV: You are acquainted with the post he held?

HOEPPNER: I think that he was then inspector of the Security Police or Staatspolizeileiter or Oberabschnittführer, but I can not quite remember what he was.

MR. COUNSELLOR SMIRNOV: And do you know Günther?

HOEPPNER: Günther, if I remember right, was at that time inspector in Berlin.

MR. COUNSELLOR SMIRNOV: Inspector of the SD, was he not?

HOEPPNER: There were no SD inspectors at that time; there were only inspectors of the Security Police.

MR. COUNSELLOR SMIRNOV: I have no more questions about the chart, Mr. President. May I ask some question about the next document?

THE PRESIDENT: Wait a minute. These words "EK" in the circle at the bottom mean Einsatzkommando I suppose, do they? And will you tell the Tribunal what the purpose of the chart is? What is the organization which it is supposed to define?

HOEPPNER: I suppose that it is the preparation of some plan of Gruppenführer Heydrich to employ the offices of the Security Police and the SD, which were under his jurisdiction, in case of possible complications with Czechoslovakia. The abbreviation "EK" means Einsatzkommando. Actually, later, when the German troops marched into Czechoslovakia, there went along units of the Security Police and of the SD which, just like the Einsatzkommandos and the Einsatzgruppen in the East, were mobile units of a very special nature, which had been newly set up and had entirely new tasks, and which were dissolved later when the State Police office in Prague and the SD Department Prague were organized.

THE PRESIDENT: Well, I am not concerned with whether they were later dissolved. Heydrich, I suppose, was in command of the whole of the SD, was he not?

HOEPPNER: Yes, Heydrich was head of the SD main office and at the same time head of the Security Police, both offices personally united in him.

THE PRESIDENT: Was Stahlecker a member of the information branch of the SD that you are speaking of?

HOEPPNER: I cannot state that for certain. If I remember correctly, Stahlecker had at that time some function in East Prussia.

THE PRESIDENT: You said just now, I thought, that Stahlecker was in Berlin.

HOEPPNER: In East Prussia at that time. In my opinion, Günther was in Berlin. His name was also mentioned previously.

THE PRESIDENT: Yes. Well, was he a member of the SD Information Service?

HOEPPNER: Yes, I think that he was then head of the SD, Berlin Oberabschnitt. I cannot say it with certainty.

THE PRESIDENT: Ehrlinger, was Ehrlinger also a member of the SD Information Service?

HOEPPNER: I do not know in what office Ehrlinger was then employed. I heard his name only later when he became head of Amt I.

THE PRESIDENT: What about Rauff?

HOEPPNER: Rauff was then in charge of the motor transportation corps of the SD head office, but here, too, I cannot state for certain whether . . .

THE PRESIDENT: What about the Information Service of the SD? Was he a member? Was Rauff a member of the SD Information Services?

HOEPPNER: He was head of a technical department in the SD main office. In the SD main office at that time, which handled foreign information and domestic information, there were several technical offices in the Central Department I which were at the disposal of the entire Amt.

THE PRESIDENT: Well, what about his functions? One of his functions was to work in the Information Service of the SD—in the Domestic Information Service of the SD?

HOEPPNER: He was also in charge of the motor cars for the Domestic Information Service.

THE PRESIDENT: Yes, but you can answer the question "yes" or "no." Was it part of his function to work in the Domestic Information Service of the SD?

HOEPPNER: Not in the Information Service as such, as far as I know. No, he only . . .

THE PRESIDENT: Well, he had no competence, as you call it, in the Domestic Information Service of the SD?

HOEPPNER: As far as I can remember, he was only in charge of the motor transportation of the SD main office—also for the Domestic Information Service.

THE PRESIDENT: Doesn't that chart show that the SD was working in transport co-ordination with the Gestapo?

HOEPPNER: In my opinion the chart shows only that the head of both organizations was prepared, in case of a march into Czechoslovakia, to employ men of both organizations there.

THE PRESIDENT: And don't these documents show that your comment about the first document was inaccurate and that that document was being used by Schellenberg in September 1938, for the purpose of organizing the SD in Czechoslovakia?

HOEPPNER: I think it is impossible that this document should have been used, because otherwise the date would have been filled in; and the Roman figures at the end of the document would have been indicated. Whether another draft was made later and submitted to Schellenberg, that I do not know.

THE PRESIDENT: Well, you see that the first document is headed Roman III, Arabic 225. The letter to Dr. Best is also headed Roman III/225, and it refers to the suggestion which is no doubt contained in that document; and the chart itself is also headed III/225.

HOEPPNER: Yes; I suppose that some other draft was made, for this is months later. This draft was almost certainly not used because then the Roman figures would most certainly have been indicated. In any case, the Roman figure III of that time had

nothing to do with the later Amt III, because the department from which the accused Amt III originated, was Central Department II/2.

MR. COUNSELLOR SMIRNOV: Mr. President, in connection with the witness' replies on the fact that he does not know whether the confidential agents of the SD made up lists of persons who were to be annihilated or mobilized forcibly or else arrested and placed in concentration camps, I would like your permission to submit another short document pertaining to another country, to Poland, and which contains the instructions of the Blockstellenleiter of the SD in Poland to his confidential agents. I ask your permission to read this document into the record.

HOEPPNER: May I say one more word? There is nothing in my document about annihilation or concentration camps.

MR. COUNSELLOR SMIRNOV: You will now have the document before you.

May I quote the document? It is USSR-522. I quote:

"Security Service of the Reichsführer SS, Blockstelle Mogilno, 24 August 1943."—Translating verbatim—"To confidential agents. Subject: The Preparation of the Lists of Poles."

The text follows:

"I have repeatedly pointed out to you the necessity of paying special attention to the Poles. For that reason, I am giving below the speech of the Reichsführer SS, Himmler, delivered on 15 March 1940 at the meeting of the concentration camp commanders in former Poland, and according to the directives given in that speech, I ask you to submit to me the list of names of all the concerned Poles."

Extract from speech:

"'For that reason, all our collaborators, both men and women, should consider as their most important and urgent task the preventing of all unscrupulous leaders of the Polish people from exercising their activity. You, as camp commanders, will know best how to fulfill this task.

"'All skilled workers of Polish origin are to be utilized in our war industry; then all Poles will disappear from the face of the earth.

"'In fulfilling this very responsible task, you must, within the prescribed limits of time, exterminate the Poles. I give this directive to all the camp commanders.

"'The hour is drawing closer when every German will have to stand the test. For that reason, the great German nation should understand that its most important task right now is to exterminate all the Poles . . .

"'I expect all my agents to report to me immediately all Polish grumblers and defeatists. For such a task we must also utilize children and aged persons, who can help us considerably, because of their so-called friendly attitude toward the Poles.'

"Extract from Himmler's speech on 15 March 1940. Heil Hitler. SS Hauptsturmführer, (signature illegible)."

I would like to ask you now, after seeing this document, whether you still deny that the workers of the SD in the occupied territories trained and oriented all persons they could use to make up lists of such persons who were to be annihilated?

HOEPPNER: Yes, I deny that, especially as I cannot state whether this document is a genuine one or not.

MR. COUNSELLOR SMIRNOV: This document was captured by the Polish Army in Mogilno in the building of the SD.

HOEPPNER: I take, for example, the words "camp commander meeting" as being absolutely impossible. I don't see what it could refer to; and it seems to me impossible to ascertain what "Polish grumblers and defeatists" might mean. It seems to me absolutely self-evident that the Poles hoped that Germany would lose the war.

MR. COUNSELLOR SMIRNOV: I am not asking you to make propagandistic speeches on the subject of Poland, I am asking you something quite different. I am asking you this question: Are you still denying the fact that the SD compelled those collaborating with it to make lists of persons to be annihilated?

HOEPPNER: Yes, I deny that.

MR. COUNSELLOR SMIRNOV: I have no more questions.

THE PRESIDENT: What evidence is there that this document was found in the SD headquarters?

MR. COUNSELLOR SMIRNOV: It was not found in the SD headquarters. That was not properly translated.

THE PRESIDENT: Your answer didn't come through.

MR. COUNSELLOR SMIRNOV: This was not found at the central headquarters Mr. President. It was not translated to you correctly if that is what was said. The document was found by the Polish Army...

THE PRESIDENT: What was translated to me was that it was captured by the Polish Army at the SD headquarters. Is that right?

MR. COUNSELLOR SMIRNOV: That is right, but not at the central headquarters of the SD for Poland, at the headquarters in the block station of Mogilno.

THE PRESIDENT: I didn't say anything about the central headquarters. All I want to know is what evidence there is that it was found at the headquarters of the SD.

MR. COUNSELLOR SMIRNOV: Yes, Mr. President. May I now read the document of the Polish delegation on the subject, which says:

> "It is hereby certified that the submitted document in the German language, dated 24 August 1943, consists of the instructions of the Security Police of the Reichsführer SS, in the City of Mogilno, containing an extract from Himmler's speech and that it is the exact photostatic copy of the original submitted by the Chief Commission for the Investigation of Nazi Crimes in Poland."

The original was found in an envelope. In the left-hand corner at the top there was stated, "Landrat of the Area of Mogilno of the Governmental District Hohensalza." Besides, there is a receipt for a registered letter which says, "Registered Mogilno, Wartheland 272," with a postal stamp "24 August 1943," addressed to . . .

THE PRESIDENT: Colonel, I am sorry, I didn't hear the beginning of what you said. What are you reading from now?

MR. COUNSELLOR SMIRNOV: I am reading, Mr. President, from the certificate which the Polish Delegation submitted on the subject of this document. This was a document which was submitted to us by the Polish Delegation.

THE PRESIDENT: How did you identify this particular document? You see, we have a document produced before us which appears to have nothing on it which connects it with that certificate. I mean, how do you connect it with this certificate?

MR. COUNSELLOR SMIRNOV: Mr. President, I was just handed a note here from our documentary section which says that since the Tribunal has the original, the original does not have the certificate of the Polish Delegation attached to it, whereas, I have the certificate attached to my document. I am very sorry about the mistake. You will receive the certificate.

THE PRESIDENT: I see—and the certificate you have identifies the translation in Russian? Is that right?

MR. COUNSELLOR SMIRNOV: Mr. President, yesterday I myself verified the translation which I have with the original, and I have found it to be accurate and correct, and the certificate also states that the Russian translation is correct.

THE PRESIDENT: Colonel Smirnov, you must offer in evidence that certificate in order to make it clear that this is the document which was found at this SD headquarters at Mogilno. That should

be attached to this exhibit. Has this got a number, this exhibit? 522, is that it?

MR. COUNSELLOR SMIRNOV: Yes, the number is USSR-522, Mr. President.

THE PRESIDENT: Well, we will have to have the certificate attached to it; then we shall be able to look at it.

MR. COUNSELLOR SMIRNOV: Yes, Mr. President. I have no more questions to ask this witness, Mr. President.

THE PRESIDENT: The Tribunal will adjourn.

[A recess was taken.]

MR. COUNSELLOR SMIRNOV: Mr. President, in connection with one of the points to which my esteemed American colleague has drawn my attention, I request your permission to put another question here to the witness concerning the first document which I submitted.

THE PRESIDENT: Which was the first?

MR. COUNSELLOR SMIRNOV: This is USSR-509, the chart.

THE PRESIDENT: Yes.

MR. COUNSELLOR SMIRNOV: Thank you.

Witness, will you kindly tell us—do you deny that Gengenbach, who is to be found in this chart as belonging to the Einsatzstab—you will be shown the chart in a minute—was a member of the SD?

[The document was submitted to the witness.]

HOEPPNER: He was on the staff of the SD.

MR. COUNSELLOR SMIRNOV: He was a member of the SD.

HOEPPNER: Yes, he was. He was Gruppenleiter of III A. He was my immediate predecessor.

MR. COUNSELLOR SMIRNOV: Tell us then, was it not you who became his deputy later on?

HOEPPNER: I was the successor of Gengenbach, but not his deputy. When I came to Berlin with the Reich Security Main Office he was already dead. Besides Gengenbach was not yet in Berlin then, for as far as I can recall today, he was at Munich. I met him only during the war.

MR. COUNSELLOR SMIRNOV: But, at any rate, you did afterward hold the post which had been held before by Gengenbach?

HOEPPNER: The position which Gengenbach held later in Berlin I took over from him. He was Gruppenleiter III A just as I was.

MR. COUNSELLOR SMIRNOV: Thank you very much. The American Prosecution, Mr. President, has a copy of the documents which have already been submitted under Exhibits Number USA-175 and USA-174, and it is stated here in the places underlined that the head of the Department III A was Gengenbach—that is the same man who is to be found in the chart.

I have no further questions to put to the witness, Mr. President.

THE PRESIDENT: Has the speech of Himmler, dated 15 March 1940, already been put in evidence?

MR. COUNSELLOR SMIRNOV: As far as I know, Mr. President, no. At any rate, I do not know this speech.

THE PRESIDENT: Thank you. Now, Dr. Gawlik.

DR. GAWLIK: Witness, do you still have Document USSR-509?

HOEPPNER: I have no documents at all.

[The document was submitted to the witness.]

DR. GAWLIK: Witness, please look at Page 1. What was the task of these Einsatzgruppen which were to be employed in Czechoslovakia?

HOEPPNER: I do not know; I had nothing to do with the preparation of these tasks.

DR. GAWLIK: I said please look at Page 1.

HOEPPNER: "To secure political life and to secure national economy," it says on Page 1.

DR. GAWLIK: Was this a completely different task from that which later in 1941 was given to Einsatzgruppen A, B, C, and D in the East?

HOEPPNER: I do not know the tasks in the East very well either, because I had nothing to do with them; but as far as I am informed, the Einsatzgruppen in the East certainly had nothing to do with safeguarding the national economy. The Einsatzgruppen in the East had to secure the rear army area.

DR. GAWLIK: Please look at the chart, the organization of these Einsatzgruppen.

HOEPPNER: The handwritten one or the printed one?

DR. GAWLIK: The second one. With the aid of this chart, can you answer the question whether these Einsatzgruppen belonged to the organization of the SD?

HOEPPNER: You mean the chart that says "Staff SS Gruppenführer Heydrich" at the top?

DR. GAWLIK: Yes, that is the chart I mean.

HOEPPNER: No, that was not an organization of the Security Service but was something completely new.

DR. GAWLIK: Regarding the tasks these Einsatzgruppen or these Einsatz staffs had, were they a part of the duties of the Security Service?

HOEPPNER: I do not know the tasks which were assigned to these Einsatz staffs. In any event, the task mentioned on Page 1, "securing the national economy," is not a task of the Security Service; it is not a task related to the Information Service nor does the "safeguarding of political life" have anything to do with the Information Service.

DR. GAWLIK: Were parts of the organization of the SD used by these Einsatz staffs? Can you answer the question with the aid of this chart?

HOEPPNER: As far as the chart shows, parts of the organization were not used but only individual members of the Security Service, just as in the case of the State Police too. The same will probably have applied as later in connection with the Einsatzgruppen in the East, that is, it can be compared with being drafted into the Armed Forces.

DR. GAWLIK: Were the individual members of the Security Service, by being assigned to the Einsatz staffs, no longer active in the Security Service?

HOEPPNER: No, of course not. For they received completely different tasks. Again, I can only make this comparison: If a judge is drafted into the army, then he no longer carries on his activity as a judge.

DR. GAWLIK: Were the activities and tasks of the Einsatz staffs generally known to the members of the Security Service, particularly the members of the subordinate agencies of the branch offices of the regional offices?

HOEPPNER: Not in the least.

DR. GAWLIK: Now, I come to the second document that deals with the letter of the Blockstelle Mogilno. (USSR-522)

[The document was submitted to the witness.]

DR. GAWLIK: What was a Blockstelle?

HOEPPNER: In the structure of the Security Service, the term "Blockstelle" did not exist but, nevertheless, it is possible that regional offices (Aussenstellen) organized subbranches and then used this term; in general, what was subordinate to a regional office was called an "observer" (Beobachter).

DR. GAWLIK: What was the staff of an Aussenstelle in general?

HOEPPNER: According to the period of time and according to the importance of the Aussenstelle, it differed considerably. On the

average, say in 1943 or 1944, there were one or two regular officials in a branch and a large number of honorary workers, whereby the head of the branch was sometimes an honorary official and sometimes a regular one.

DR. GAWLIK: Was the Blockstelle above an Aussenstelle or was it subordinate to it?

HOEPPNER: Above the Aussenstelle was the Abschnitt, not the Blockstelle, and, as I said before, the different Aussenstelle sometimes selected terms for subordinate offices which were not really officially recognized. Observers were, however, recognized.

DR. GAWLIK: Did Amt III issue any orders as established in this document?

HOEPPNER: No; under no circumstances.

DR. GAWLIK: Then is this a case of the head of the Aussenstelle in Mogilno acting on his own initiative? I mean the head of the Blockstelle.

HOEPPNER: If Himmler did make this speech then it would certainly constitute an arbitrary act. The only thing that I cannot imagine is Himmler's saying, when making a speech to the camp commanders, that he expected something of all his informers.

HOEPPNER: I am not speaking of Himmler. I am speaking of the orders of the head of the Blockstelle.

DR. GAWLIK: But the instructions are in the speech by Himmler—or do you mean the instructions in the first sentence "to give especial attention to Poland"? The head of the Blockstelle in Mogilno will, of course, have cared for the Poles in the same way as he cared for the Germans. He was naturally interested in the general attitude and frame of mind of the Poles, and he reported to the Reich main office, to Group III D.

DR. GAWLIK: Then I show you Document 3876-PS.

THE PRESIDENT: How does this arise from the cross-examination?

DR. GAWLIK: Mr. President, I have a few more questions in connection with the questions which Your Honor asked yesterday at the end of the session relating to distribution.

THE PRESIDENT: You are putting in some document which has not been referred to before?

DR. GAWLIK: The document was submitted yesterday by the American Prosecution.

THE PRESIDENT: Oh, well it was. I beg your pardon.

HOEPPNER: I have here the English text of the document.

DR. GAWLIK: Please look at Page 45 now, the distribution. Did commanders of the Security Police and the SD belong to the Einsatzgruppen A, B, C, and D?

HOEPPNER: No, that is something different. The Einsatzgruppen were mobile units, which advanced together with the Armed Forces in the rear army area. The offices of the commanders were offices in the civilian administration. When an area was taken into civil administration, the office of the commander was set up.

DR. GAWLIK: How were the Einsatzgruppen A, B, C, and D organized?

HOEPPNER: They were divided into the Einsatzkommandos.

DR. GAWLIK: What names did these Einsatzkommandos have?

HOEPPNER: These Einsatzkommandos had no names at all. As I said yesterday, they were numbered from 1 to 10, as far as I can recall, possibly even to 11 or 12.

DR. GAWLIK: Please look at the distribution. There it says that the chiefs of the Einsatzgruppen A, B, C, and D received copies for the commanders of the Security Police and the SD.

HOEPPNER: No, that is wrongly translated. It should be for the Kommandeure of the Security Police and the SD, not for the commanders; that is the Kommandeure of the Security Police who were subordinate to the commanders of the Security Police and the SD. To make it more clear, the Einsatzkommandos were not led by a Kommandeur of the Security Police and the SD, but by the Kommandeure of Einsatzkommandos 1, 2, 3, *et cetera*. In the territory which was under civil administration, the situation was the same as in occupied France. There were offices of the Kommandeure of the Security Police and of the SD. That was something quite different from the Einsatzkommandos.

DR. GAWLIK: Who were the officers superior to the Kommandeure?

HOEPPNER: Of which Kommandeure?

DR. GAWLIK: Of the Security Police and of the SD.

HOEPPNER: The commanders of the Security Police and the SD.

DR. GAWLIK: Who were their superiors?

HOEPPNER: The Chief of the Security Police and the SD in Berlin.

DR. GAWLIK: Who was the superior of Einsatzgruppen A, B, C, and D?

HOEPPNER: That cannot be answered in one word. In reality the chiefs of the Einsatzgruppen had two superiors. In the first

place, they were assigned to the army group in question, and had to take instructions from the chief of the army group. On the other hand, they received specialized instructions from the Chief of the Security Police and the SD. That is the very reason why I said yesterday that they were unique and different.

DR. GAWLIK: Now I ask you again. If the Kommandeure of the Security Police and the SD did not belong to the Einsatzgruppen A, B, C, and D . . .

THE PRESIDENT: Dr. Gawlik, hasn't all this been thoroughly gone into already? I mean, we have got the document. We have asked the witness a number of questions and he has given his answers. You are now asking him the same questions over again.

DR. GAWLIK: Mr. President, I only have one more question with regard to the copies.

THE PRESIDENT: Ask your question then.

DR. GAWLIK: Why did the chiefs of the Einsatzgruppen A, B, C, and D receive copies for the commanders of the Security Police and the SD, if they were completely separate organizations?

HOEPPNER: Probably there were different organizations but in certain cases the people were the same; or, as I assume, this was not a clear way of expressing it. I had a German copy yesterday. Various words were used for "Commander." Sometimes it was "Kommandeur" and in the next line it was "Befehlshaber." Those are completely different functions. I had a German copy yesterday.

THE PRESIDENT: The witness can retire. Dr. Gawlik, your next witness.

DR. GAWLIK: With the permission of the Court, I call as the next witness, Dr. Rössner.

[The witness Rössner took the stand.]

THE PRESIDENT: Will you state your name, please?

DR. HANS RÖSSNER (Witness): Hans Rössner.

THE PRESIDENT: Will you repeat this oath after me: I swear by God—the Almighty and Omniscient—that I will speak the pure truth—and will withhold and add nothing.

[The witness repeated the oath.]

THE PRESIDENT: You may sit down.

DR. GAWLIK: When were you born?

RÖSSNER: 1910, in Dresden.

DR. GAWLIK: Describe briefly your professional career.

RÖSSNER: After the customary schooling I graduated in 1930, then studied the German language and literature, German history,

and Protestant theology. From 1936 on I was assistant at the University of Bonn; from 1939 to 1940, military service; in 1940 deferred for the University of Bonn and emergency service in the Reich Security Main Office, Amt III.

DR. GAWLIK: Since when have you been a Party member?

RÖSSNER: Since 1937.

DR. GAWLIK: What office did you have in the Reich Security Main Office?

RÖSSNER: I was an expert, later section chief, in Group III C, Amt III.

DR. GAWLIK: Are you well acquainted with the tasks, methods, and aims of Group III C?

RÖSSNER: Yes, I am.

DR. GAWLIK: Please wait a little before you answer. In addition, do you also know of the tasks, methods, and aims of Amt III?

RÖSSNER: Yes, I also know these because they were fundamentally the same as those of Group III C.

DR. GAWLIK: What were the tasks and aims of Amt III since 1939?

RÖSSNER: Amt III was a domestic German information service. It had set its aims and tasks to a great extent itself and worked independently in the domestic German sphere of life, that is to say it took up important questions of domestic German life in various fields, such as economics, culture, administration, law, and others as far as information service was concerned, and in particular attempted to collect and sum up criticism on the part of the population regarding mistakes, faulty developments, measures, *et cetera*, and to report on them.

DR. GAWLIK: Please give a few examples by way of explanation.

RÖSSNER: For example, every week and sometimes daily, Amt III reported on the opinion of the population on German propaganda to the agencies concerned. Beyond that, in 1943 for example, Amt III, through its reports, prevented the closing of German universities in spite of Germany's total war effort.

DR. GAWLIK: The Prosecution has submitted, on Page 11 of the English trial brief, that Amt III had to carry out police investigations in all phases of German life. Did Amt III have to carry out police investigations?

RÖSSNER: Never did Amt III as long as it existed have any police tasks.

DR. GAWLIK: Did the SD, Amt III, have the practical task and the fundamental aim of giving information through its information

center on actual and possible opponents of the Nazi movement? This refers to Page 17 of the trial brief.

RÖSSNER: No. Amt III was basically not an information service on opponents, but on German domestic life.

DR. GAWLIK: What was the purpose of the information service reports of Amt III? In particular, was the main task to support the leaders of the Party and State as partners of a conspiracy and to keep them in power?

RÖSSNER: No. Amt III never had such a task and did not set up such a task for itself. The task of the information service of Amt III was to furnish an extensive and objective picture of the domestic problems of German internal life and to present them in an open and direct manner.

DR. GAWLIK: Did the members of Amt III know that the leaders of the Party and the State were participating in a secret plan for the purpose of committing Crimes against Peace, War Crimes, and Crimes against Humanity?

RÖSSNER: To my knowledge, the members of the Amt III did not know anything about this. All the material collected by the SD, Amt III, was evidence to the contrary.

DR. GAWLIK: Can you answer this question for the members and honorary members of the subordinate agencies?

RÖSSNER: Yes.

DR. GAWLIK: Did the close collaborators of the chief of Amt III know of such a conspiracy?

RÖSSNER: No. Not even the closest collaborators knew anything about this.

DR. GAWLIK: On what is your knowledge based for your answer to the last few questions?

RÖSSNER: I often participated in internal Gruppenleiter conferences with the chief of Amt III.

DR. GAWLIK: Were the tasks and aims of the Domestic Information Service known to all workers even in the subordinate agencies?

RÖSSNER: Yes, the tasks and aims were known to the workers and honorary workers of the subordinate agencies. They were continually announced in the individual conferences, meetings, lectures, *et cetera.*

DR. GAWLIK: On what is your knowledge based by reason of which you have answered my last question?

RÖSSNER: On numerous individual conferences and meetings where I myself announced the aims and tasks of Amt III.

DR. GAWLIK: In the reports made on a situation, were the names of the persons mentioned?

RÖSSNER: No, not usually, since the SD was not interested in the names of individual persons, but in typical examples of questions regarding the different spheres of life.

DR. GAWLIK: In giving personnel data, was the aim being pursued to bring persons into influential State positions who would not oppose the execution of a plan for committing War Crimes, Crimes against Peace, and Crimes against Humanity?

RÖSSNER: No, Amt III did not have any such aims. Such data and reports of the SD were kept separate on principle from the reports on the general situations. The SD, Amt III, gave personnel data, but did not have permission to pass judgment on people. That was the sole task of the Hoheitsträger of the Party.

DR. GAWLIK: What was the purpose of giving out information on personnel data by the SD?

RÖSSNER: This was to supplement the political judgment and purely specialized judgment of the individual Party offices and departments and present if possible a total picture of the personality, character, professional ability, political attitude, and personal way of living independent of any departmental point of view or of any power or political interests.

DR. GAWLIK: The Prosecution describes the tasks of the SD as follows: The task consisted in taking necessary steps to destroy the opposition or to make it harmless. Does this correspond with the actual facts and ideological aims of Amt III since 1939?

RÖSSNER: No, by no means. I have already emphasized the fact that Amt III was not an intelligence service for gathering news about opponents.

DR. GAWLIK: When did Amt III give up this task?

RÖSSNER: Amt III never had this task.

DR. GAWLIK: The Prosecution further submitted that the SD had an extensive spy net that would spy on the German people in their daily work, on the streets, and even in the sanctified halls of the church. This is on Page 66 of the English trial brief. Did the SD conduct such an extensive spy network as described?

RÖSSNER: During the whole period of its existence, Amt III never worked with spies or a spy network in the domestic German sphere of life. The spy network would have contradicted all the basic aims of this internal German information service.

DR. GAWLIK: Did the SD for its tasks use only regular officials?

RÖSSNER: No, they were by far in the minority. The work of the internal SD was dependent upon the big staff of honorary workers from all parts of the country and all professions.

DR. GAWLIK: Can you give any figures?

RÖSSNER: I cannot give accurate figures, but in the last few years we estimated the honorary workers at some 10,000. They worked on a completely voluntary basis and a large part worked on their own initiative for the internal SD.

DR. GAWLIK: From what point of view were the confidential agents chosen for the information service for German domestic spheres of life?

RÖSSNER: Such a confidential agent had to offer proof that, free from selfish interests, he would give clear and objective information on questions relating to his professional sphere, or to the population among whom he lived and on other concerns and worries and statements of criticism of the population with whom he came in contact. In addition, he had to be a person of decent character.

DR. GAWLIK: Did these agents have to be members of the Party?

RÖSSNER: No, by no means. It was even desired to have as large as possible a percentage of non-Party members among these agents of the SD so as to get a complete and independent picture of the total situation within Germany through these agents.

DR. GAWLIK: Did the agents have to be members of the SS?

RÖSSNER: No, the percentage of members of the SS among these agents was, according to my estimate, still less than that of Party members.

DR. GAWLIK: What were the tasks of these confidential agents?

RÖSSNER: The task varied. In Amt III we had agents who were to give general information on the frame of mind, attitude, and opinions of the population on urgent questions during the course of the war years. Then we had another type of agent who gave information on their professional cares and worries and on questions relating to the specialist fields into which they had insight.

DR. GAWLIK: What was the task of the SD Arbeitskreise?

RÖSSNER: In the so-called SD Arbeitskreise the agents of the subordinate agencies were called together in an informal way. In these Arbeitskreise questions and problems concerning technical matters and measures of the Party and State agencies were discussed with absolute sincerity and frankness. The results of these discussions and criticism were summarized and then sent to Amt III in Berlin. The main prerequisite was absolute objectivity and absolute frankness and criticism.

DR. GAWLIK: Did the agents or the Arbeitskreise work under any special cloak of secrecy? This question refers to the trial brief, Page 16.

RÖSSNER: I do not know what you mean by the expression, "cloak of secrecy." I can answer that these agents never acted under any special personal secrecy and these Arbeitskreise which I just mentioned had no special obligation for secrecy. Usually taking place in some university, they were publicly known as Arbeitskreise.

DR. GAWLIK: Were there, aside from those employed, other agents of the SD?

RÖSSNER: Yes. In the last few years of our work there were more and more representatives of the most various professions and walks of life who on their own initiative came with some worry, criticism, or some positive suggestion to the SD, in order, on the basis of a personal confidence in the SD, to be able to turn over their worries to it.

DR. GAWLIK: Now, I show you Prosecution Documents 1650-PS, D-569, and 1514-PS. They deal with the Kugel Decree concerning the treatment of Russian prisoners of war and the turning over of prisoners of war to the Gestapo. It is the first point of the charge, VI (c), against the SD.

Was the SD Amt III competent for executing this decree?

RÖSSNER: No, the SD was not competent because Amt III, from the beginning, had no executive power.

DR. GAWLIK: Can you give any further explanation of the individual documents?

RÖSSNER: The documents all refer to the Secret State Police, the Gestapo. One document merely mentions the chief of Amt III. The document of the Armed Forces also refers to the Gestapo.

DR. GAWLIK: Was the SD, the Domestic Information Service, used to carry out these decrees?

RÖSSNER: No, this would have been in contradiction to its tasks.

DR. GAWLIK: Did the SD, the Domestic Information Service, participate in the deportation of citizens of the occupied territories for forced labor?

RÖSSNER: No, this was an executive task for which the SD, Amt III, was not competent.

DR. GAWLIK: Did the SD have the power to inflict punishment on forced laborers? This question refers to Page 1941 of the English transcript (Volume IV, Page 268).

RÖSSNER: No, this also would have been an executive task.

DR. GAWLIK: Did the SD, through its reports, contribute to deportations?

RÖSSNER: No, quite on the contrary. Amt III repeatedly showed up the negative effects of such measures.

DR. GAWLIK: Did the SD have any control over the forced laborers brought into the Reich?

RÖSSNER: No, this control would also have been an executive task which Amt III did not have.

DR. GAWLIK: Now, I show you Document 205-PS. This is a memorandum on the general principles for the treatment of foreigners employed in the Reich. Did the SD have any part in the drafting of this memorandum?

RÖSSNER: Yes, to my knowledge the SD, Amt III, had a part in the drawing up of this memorandum. It made its material available in setting up directives for a positive treatment of foreign workers. This material, which was used in this memorandum, corresponded, moreover, to the basic principles of the domestic SD in the treatment of national questions in the European area.

DR. GAWLIK: What is your knowledge based on as to the drawing up of this memorandum?

RÖSSNER: Part of the material comes from Group III C, in which I myself was section chief.

DR. GAWLIK: Did the SD, Amt III, have the right to make confiscations? This question refers to the part of the charge VI (K) of the trial brief.

RÖSSNER: No, the SD had no right to confiscate. This also would have been an executive task.

DR. GAWLIK: Did the SD Domestic Information Service participate in the confiscation and distribution of public and private property?

RÖSSNER: No.

DR. GAWLIK: On Page 51 of the trial brief, it says, referring to Document 071-PS:

> "In connection with the planned confiscation of scientific, religious, and art archives, an agreement was reached between Rosenberg and Heydrich on the basis of which the SD and Rosenberg were to co-operate closely in the confiscation of public and private collections."

Was there any such close co-operation between the SD and the staff of the Defendant Rosenberg, his agencies, or any of his deputies?

RÖSSNER: No. In this document we are again confronted by the customary mistake concerning the Security Police and the SD. Such co-operation, if it existed, would have had to be known to me, since Group III C would have been competent for it.

DR. GAWLIK: Mr. President, I now come to my last point. Shall I begin it?

THE PRESIDENT: Have you any questions to ask upon it? It looks as if you had, so perhaps we had better adjourn.

DR. GAWLIK: There are 34 questions.

[The Tribunal recessed until 1400 hours.]

Afternoon Session

DR. GAWLIK: I come now to my last point, the persecution of the Church, trial brief Section VII B. I should like to call the attention of the Tribunal to the fact that the SD is charged with being active in this regard only until 12 May 1941—Page 60 of the English text of the trial brief. My taking of testimony limits itself to the time from the establishment of the RSHA in 1939 up to 12 May 1941.

THE PRESIDENT: Wait a minute. Which does that mean, May 1940 or May 1941?

DR. GAWLIK: The 12 May 1941—Page 64, the last section but one of the trial brief, where it states that the political treatment of the Church was divided between the Gestapo and the SD and from that point on was taken over entirely by the Gestapo.

Did Department III C handle Church questions?

RÖSSNER: No.

DR. GAWLIK: Did any other department in Amt III handle Church questions?

RÖSSNER: No. Since the establishment of Amt III, no Church matters were handled in that office at all.

DR. GAWLIK: What was handled in Amt III?

RÖSSNER: In Amt III, Group III C, only general religious matters in various realms of life were handled.

DR. GAWLIK: In what manner were the matters regarding religious life handled?

RÖSSNER: The principles of the handling were the same as for any other sphere of life. It was the task of Amt III to observe all the religious wishes, cares, proposals, and tendencies of the German population and the influence of the German religious movements and the Christian creeds on the opinion, spirit, and attitude of the German people in the Reich, and to report on them.

DR. GAWLIK: The Prosecution has stated that the persecution of the churches was one of the fundamental purposes of the SD and the Security Police. Did the SD have this basic purpose in common with the Security Police?

RÖSSNER: To my knowledge as responsible head of a department, no such common purpose existed.

DR. GAWLIK: Did the SD on its own initiative have and realize any such program?

RÖSSNER: No. That would have been against all the principles of our work.

DR. GAWLIK: Did the SD, Amt III, actually engage in the persecution of the churches?

RÖSSNER: No.

DR. GAWLIK: Was the SD, Amt III, in any way involved by the Gestapo in an alleged persecution of the Church?

RÖSSNER: No. Between the Gestapo and Amt III there was a complete separation of material, personnel, and organization.

DR. GAWLIK: Was the SD involved in the persecution of the Church by any other office of the Party and State?

RÖSSNER: No. The SD worked quite independently in this sphere. No offices of the Party or of the State were entitled to give direct assignments to the SD.

DR. GAWLIK: Were the regular and honorary members of the SD under any supervision as regards their attitude toward the Church and induced to leave the Church by threats or other means?

RÖSSNER: No. I know nothing about that, and it would also have been contrary to our fundamental conceptions. Until the end, a large number of regular and honorary officials were and remained members of the Christian churches. I might mention that the Chief of Amt III himself left the Protestant Church as late as 1942.

DR. GAWLIK: Did the SD, Amt III, have veiled aims and did there exist any secret proceedings in the fight against the Church? This question is relevant to Page 58 of the trial brief.

RÖSSNER: Neither in this sphere nor in any other sphere of activity of Amt III were there any concealed aims or secret proceedings. As head of a department I would have had to know of them.

DR. GAWLIK: I submit to you Prosecution Document 1815-PS. Will you look at Page 59, please?

RÖSSNER: May I ask—the document does not go up to Page 59—is it Page 29 or 39?

DR. GAWLIK: 29, either 29 or 39.

RÖSSNER: I have both pages here.

DR. GAWLIK: Will you look at Page 1?

RÖSSNER: I have Page 1 here.

DR. GAWLIK: There it says that the former officials should be detailed to the Gestapo for the time being.

Was this order given on the ground that the organization, the tasks, aims, and activities in the sphere of church affairs were the same in Amt III of SD and Amt IV of the Gestapo?

RÖSSNER: This order was given for an entirely different reason. Since Amt III and Amt IV were entirely different offices, the transfer of the former SD employees to Amt IV would have taken too

long, and for that reason this planned transfer was undertaken in the form of an order so as to save time for the work.

DR. GAWLIK: Will you now comment on Page 29 of the Prosecution document? That is record Number 18. Will you look at the first two sentences. Can it not be seen from that that the SD handled Church matters in collaboration with the State Police and the Criminal Police?

RÖSSNER: The document before me shows that the SD, Amt III, did not participate at all in this connection. At the time of this conversation in 1942, Amt III, according to the order of separation which was previously mentioned, was not allowed, on principle, to handle Church matters.

DR. GAWLIK: Will you now look at Page 1 and Page 2. On the basis of these two pages, the Prosecution has suggested—I refer to Page 58 of the trial brief—that the handling of Church matters had until then been divided between the Gestapo and the SD, and that the SD files on Church opposition were then to be transferred to the Gestapo but the SD was to retain material concerning Church influence on public life. Will you make a statement on this?

RÖSSNER: I said already at the beginning, that the SD, Amt III, had never handled Church matters since its foundation. The former material that was to be given by reason of this order to Amt IV was general informational material which was not suitable for the executive police tasks assigned to Amt IV. By the way, the order submitted to me was formulated by Amt IV and therefore pays particular attention to the point of view of Amt IV.

DR. GAWLIK: Now will you look again at Page 19, please, where it says, in summarizing, that in Church matters the struggle against opposition and the work in everyday life must go hand in hand. Does this not indicate a collaboration of SD and State Police with the common aim of a struggle against the Church?

RÖSSNER: No, because Amt IV, to my knowledge, never had the fundamental task of a struggle against the Church. What is formulated here on this page is the personal desire of an inspector who had no actual right to give orders either to the Gestapo or to the SD.

DR. GAWLIK: Now look at Page 24, especially Paragraphs 1 and 4, where it says, "For the reasons stated, I request the 'Information Service on opponents' immediately to extend and intensify work in the field of Church policy." Also note immediately afterward: "As soon as channels of information have been established in this way..." Does it not seem from that that the SD had an intelligence service on opponents in the sphere of the Church?

RÖSSNER: No; it indicates exactly the opposite. The decree in front of me is dated August 1941, that is to say, after the order separating the two services. If the SD, on the basis of this order of separation, had transferred to Amt IV its information service apparatus to be used as "Information Service on opponents," then this decree of August 1941 need not have given the order finally to begin the establishment of an Information Service in Amt IV. By the way, the order was given to a large number of State Police offices and, therefore, it cannot deal with an individual local case.

DR. GAWLIK: I refer you now to Page 27, which discusses the transfer of agents to the Gestapo, and a common leadership for these agents. What have you to say to this order of the inspector in Düsseldorf?

RÖSSNER: I must first again point out that this can be only a personal desire of the inspector, since he had no actual power to give orders. Practically, such a desire could never have been realized because, owing to the variety of the tasks, it was completely impossible to provide common confidential agents of Amt III and Amt IV with practical assignments on specific questions. Each agent of the SD would have refused to undertake police tasks in addition to his regular duties.

DR. GAWLIK: On the basis of your activity, what can you say about the volume of the files which, as a result of the separation order of 12 May 1941, were handed over to the Gestapo by the SD.

RÖSSNER: That must have varied considerably according to the way in which cases were handled by the various offices. Sections with good information services would have had correspondingly more material which would then have been given to the State Police.

DR. GAWLIK: On the basis of your knowledge, were the files which were handed over by the SD of any use for the police tasks of the State Police against individuals?

RÖSSNER: No, they certainly were not, as the method of interrogation for gaining intelligence on ecclesiastical problems on the part of the SD was entirely different. Particularly, it was never drafted to suit individual cases.

DR. GAWLIK: According to your knowledge, were the files that were then handed over actually worked on by the State Police?

RÖSSNER: I cannot make any statement in detail, but for the reasons I have just given a large part of the material was never utilized any further, as it was completely useless for police tasks.

DR. GAWLIK: Did Amt III of the SD have the fundamental task and aim of persecuting the churches, or preparing a general

persecution of the Church, and did it work at all for the persecution of the Church—that is to say, in the period between 1939 until the order of separation of 12 May 1941?

RÖSSNER: No, Amt III never did at any time receive such a practical assignment, nor did it ever set itself such a goal.

THE PRESIDENT: Dr. Gawlik, you remember that you told us before the adjournment that you had come to your last point.

DR. GAWLIK: Yes. I have only about six questions.

THE PRESIDENT: Then you can compress them into a short time.

DR. GAWLIK: Did Amt III regularly inform leading offices of the Party and the State on the questions pertaining to religious matters, with a view to a common persecution of the Church?

RÖSSNER: No, the reports about religious matters in everyday life came in very slowly and incompletely in the last period because the department in Amt III had for years only one man to work on these matters.

DR. GAWLIK: What was the aim of the SD in informing other offices about these matters?

RÖSSNER: Amt III, in addition to its ordinary reports, also pointed out in public reports that according to its opinion it was not a matter of a struggle for political power with the Church but, for the vital questions of religion affecting the German people, in conjunction with other cultural questions.

DR. GAWLIK: Did the reports of the SD lead to the preparation or institution of measures inimical to the Church?

RÖSSNER: No. On the basis of the reports of Amt III, on several occasions, strong criticism was voiced on individual measures against the Church, on the part of individuals or by various offices.

DR. GAWLIK: I have no further questions to ask.

M. MONNERAY: Witness, you said that you were drafted into the SD in 1940?

RÖSSNER: I did not say that I was called up but that I was detailed to the Reich Security Main Office on emergency duty.

M. MONNERAY: You forgot to state that you were already a member of the SD before that.

RÖSSNER: I was asked by defendant's counsel, as far as I know, since when I had been in the SD.

M. MONNERAY: Were you a member of the SD before 1940?

RÖSSNER: I did not understand the question exactly.

M. MONNERAY: Were you a member of the SD before 1940?

RÖSSNER: Yes. From 1934.

M. MONNERAY: You forgot that, did you not?

RÖSSNER: Not as far as I know. Besides, I said it all in detail before the Commission.

M. MONNERAY: Is it a fact, Witness, that before the seizure of power by the Nazi Party, the SD was a secret and illegal organization?

RÖSSNER: May I ask again—did you say before the seizure of power?

M. MONNERAY: Yes, before the seizure of power.

RÖSSNER: I cannot say anything about that, as I was not a member of the SD.

M. MONNERAY: After the seizure of power, was the SD employed by the Party and on the other hand by the State, along with the Gestapo, in order to fight opposition groups?

RÖSSNER: As far as I know, the SD always had an entirely different information service task from that of the Gestapo.

M. MONNERAY: During the war, in the occupied territories, did the SD appear at the same time as the Sipo within the Einsatzkommandos?

RÖSSNER: I can unfortunately give no testimony about the organization and activity of the Einsatzkommandos, as I was never in occupied territory as a member of the SD.

M. MONNERAY: Do you know Streckenbach?

RÖSSNER: Yes.

M. MONNERAY: What were his functions?

RÖSSNER: As far as I know, he was for some years Chief of Amt I.

M. MONNERAY: And Office Number I was in charge of organizational questions as much for the Sipo as for the SD, is that right?

RÖSSNER: Yes.

M. MONNERAY: Therefore, he should know sufficiently the respective functions of the Sipo and the SD?

RÖSSNER: May I ask again "who" knew the functions exactly?

M. MONNERAY: Witness, the question was quite clear. I was referring to Streckenbach.

RÖSSNER: No, one cannot assume that, since under him the duties and organizational problems were worked on entirely separately, even in his Amt I. I cannot judge to what extent Streckenbach knew and supervised the tasks of the SD.

M. MONNERAY: I should like to read to you Document F-984. It is an appeal by Streckenbach, published in the bulletin of the Chief of the SD and Sipo.

THE PRESIDENT: Has this already been offered in evidence or not?

M. MONNERAY: This document will be Exhibit RF-1540. It has not yet been offered in evidence, Mr. President. It is an appeal by Streckenbach to all the members of the Sipo and the SD, dated 7 September 1942. Extracts from this appeal read as follows:

> "Even before the seizure of power, the SD had done its share in contributing to the success of the National Socialist revolution. After the seizure of power the Sipo and SD assumed the responsibility for the internal security of our Reich and opened up the way for the forceful realization of National Socialism in the face of all opposition. Since the beginning of the war our Einsatzkommandos are met wherever the German Army goes and are carrying on, each in its own sector, the fight against the enemies of the Reich and of the people."

Further on, this appeal requests material and information about the activities of the Sipo and the SD:

> "For instance, in particular, articles, reports, or pictures are to be sent in on the following subjects: The history of the SD, its inception, its struggle to be acknowledged as the sole information agency of the SS and later on of the Party; difficulties and experiences when first setting up offices, records of the illegal activities during the struggle for power and reports about the development of the organization of the SD from its beginning until its full expansion after the seizure of power. Further, particularly important instances of intelligence activity before and after the seizure of power (illegal missions, *et cetera)*"—and further on—"... common actions of the Gestapo and of the SD for the destruction of antagonistic groups."

Witness, this appeal by Streckenbach is contrary to your declarations, is it not?

RÖSSNER: No, because there is not a word in this appeal about the actual tasks of Amt III—of domestic SD. Besides, the excerpt submitted to me does not indicate who actually drafted this appeal and formulated it. The name Streckenbach only means that he has signed it.

Amt III can hardly have participated in it, because otherwise the tasks of this Amt III would have had to be described more or less accurately in this appeal.

M. MONNERAY: What other offices had the SD apart from Amt III?

RÖSSNER: For the domestic SD there was only Amt III.

M. MONNERAY: Witness, I would be grateful to you if you would answer my questions.

RÖSSNER: I thought I had just answered your questions, Mr. Prosecutor.

M. MONNERAY: I asked you what the offices of the SD were, and not what the offices of the domestic SD were.

RÖSSNER: Under the general concept of SD, which had nothing to do with the concept of the domestic SD, there were also Amt VI and Amt VII.

M. MONNERAY: What were the functions of Amt VI?

RÖSSNER: That was the Foreign Information Service.

M. MONNERAY: When one speaks of the struggle against opposition groups, in conjunction with the Gestapo, you no doubt think it means a struggle in foreign countries, do you not?

RÖSSNER: That cannot be deduced in detail from the document which I have before me.

M. MONNERAY: Again you are not answering my question, Witness. Can you imagine the Gestapo fighting against antagonistic groups outside the Reich?

RÖSSNER: No. To my knowledge the Gestapo had a police task within the frontiers of the Reich.

M. MONNERAY: Very well. So when this appeal mentions a fight carried out by the SD on the one hand and the Gestapo on the other hand and jointly, too, against hostile groups, reference is really being made to a fight which is going on inside the country, is that right?

RÖSSNER: Yes, although nothing is said thereby about the task of the domestic SD.

M. MONNERAY: You told us several times, Witness, that the duties of the domestic SD, and no doubt all the more those of the SD outside the Reich, were very different from the task of the Gestapo and that of the Police in general, is that not so?

RÖSSNER: I have said absolutely nothing today about the foreign division of the SD except in mentioning the existence of Amt VI.

M. MONNERAY: Please, Witness, can you answer for the domestic SD?

RÖSSNER: Yes.

M. MONNERAY: According to you, the Police was imbued with a police psychology?

RÖSSNER: May I ask the prosecutor what he means by this statement?

M. MONNERAY: As opposed to the ideas of the SD, which were objective; is that right?

RÖSSNER: I cannot say with what psychology the Police was imbued, because I was never a member of the Police.

M. MONNERAY: But you told us the SD was animated by objective, impartial, and scientific ideas. That is right, is it not?

RÖSSNER: I never said scientific ideas, but always by an objective and critical spirit, and I would like to stress this formulation expressly.

M. MONNERAY: Was this also the spirit of the Police?

RÖSSNER: I cannot judge that for, as I said, I never belonged to the Police.

THE PRESIDENT: Put the question again, would you, M. Monneray?

M. MONNERAY: These impartial and objective ideas were also the ideas of the Police?

RÖSSNER: I cannot state an opinion on this, as I was never a member of the Police, but only of the domestic SD, Amt III.

M. MONNERAY: Let us be clear about this, Witness. You gave us long explanations as to the differences between the SD and the Police, did you not? If you can give us evidence about this difference, you must at least know what the Police is.

RÖSSNER: I have explained for certain spheres the difference between the SD tasks and the Police tasks, but I am not in a position to define all the duties of the Police, because I am not familiar with them. I spoke only of the principles of the work of Amt III and of concrete examples that I know from the departments in which I worked.

M. MONNERAY: Is it correct to say, Witness, that the young candidates who had to, or wished to enter the SD received exactly the same training as the young candidates who wished to enter the Gestapo or the Kripo?

RÖSSNER: I am not acquainted with the training of candidates for the SD in detail. I know only that the head of Amt III repeatedly, from year to year, raised positive objections to a certain planned uniformity of the training. How far his objections achieved a practical result, I cannot say from my own knowledge.

M. MONNERAY: Well, I shall put to you a paper for your information which seems rather incomplete on subjects with which you were always concerned. It is a circular published in the official bulletin of the Chief of the Sipo and the SD, dated 18 May 1940, which states that young candidates, young students of the Police and SD—in spite of the objective and impartial character of these—would have to be attached for a period of 4 months to the Criminal Police, for 3 months to the Gestapo, and 3 months to the SD. You were unaware of this, were you?

RÖSSNER: No.

M. MONNERAY: Now you have told us also that the SD had very little to do with the official policy of the personnel and the Nazi Party. Is that right, Witness? Perhaps you now recall the fact that the Political Leaders of the Party had to give the German Government their opinion of the political outlook of candidates for Government posts. You know that, do you not?

RÖSSNER: May I ask the Prosecutor to repeat his question? I did not quite follow it.

M. MONNERAY: When it was a question of promoting a civil servant of a certain grade, or of appointing a civil servant, the Political Leader—the Gauleiter or the Kreisleiter, for instance—would have to furnish to the Government a sort of political appreciation of the sound outlook of the candidate; is that right?

RÖSSNER: Yes, I said already this morning that this was the duty of the Hoheitsträger of the Party.

M. MONNERAY: And it was the Chief of the SD who had to supply the political appraisal?

RÖSSNER: No.

M. MONNERAY: Very well. I shall read to the witness an extract of Document F-989, which becomes Exhibit RF-1541—Page 2 of the extract.

It is a circular of the Chancellery of the National Socialist Party concerning political reports supplied by Political Leaders. First of all, this political report is defined as follows:

"The political opinion is an estimate of the political and ideological attitude and of the character . . . .

"The political opinion must be true and correct that is to say it must be evaluated on the aims of the Movement."

And afterward there is a short paragraph saying who will have to supply this opinion:

"In procuring the data for that estimate the competent Hoheitsträger, the technical office and the SD must be heard.

Political information can be given by all offices of the Party and particularly by the offices of the SD."

RÖSSNER: I said clearly this morning that the SD was allowed to give information but never political judgments and that the SD itself paid special attention to giving as complete a personal picture as possible in these opinions which were supplemented by other inquiries. In the extract which is before me, moreover, there is no mention, so far as I can see, of personal information but only of information on the general lines of which I spoke this morning.

M. MONNERAY: In this document there is no mention of the political appraisal as a useful judgment of the political and ideological attitude?

RÖSSNER: Not in this document, no. It only mentions generally reports on prevailing conditions.

M. MONNERAY: Very well. I will ask that the witness be shown the original letter a little later.

I continue. There was close collaboration between the SD and the Party, was there not?

RÖSSNER: One cannot in any way speak of close collaboration. The relations between the SD and the Party, especially between Amt III and the Party Chancellery, were to a great extent strained to the utmost in the last years. I would be very glad to illustrate this with concrete examples.

M. MONNERAY: I would like to read you another extract from the same circular, dated 21 August 1943. It says . . .

[The document was submitted to the witness.]

RÖSSNER: That is the same extract which I have already received.

M. MONNERAY: "The SD is directed by the RSHA to keep the competent leaders currently informed on the political events which take place in their sector . . . . On the other hand, by this practice the SD constantly drew the attention of the Hoheitsträger to particularly urgent matters which demanded the latter's intervention." (F-989)
Is that right?

RÖSSNER: Here, unfortunately, theory and practice are completely at variance. Amt III would, contrary to the usual practice, have been very glad in many cases to be heard by the Hoheitsträger of the Party so that all the critical material could have been gathered. But in many cases this was not done for years, since the local representative of the SD was not received by the Hoheitsträger.

M. MONNERAY: Very well, we will see by way of a few examples whether there was a difference or an inconsistency between practice and theory. Before the Commission you were shown Document R-142, Exhibit USA-481, concerning the control of the 1938 plebiscite by the SD. The collaborators of the SD, who were so honorable and so disinterested, had even falsified the ballot papers. And since this concerns an actual fact, you probably want to tell us that it is an isolated instance?

RÖSSNER: I would like again to repeat most emphatically before the High Tribunal that this document does not refer to the SD but to one single subsidiary office among many hundreds of branch offices of the SD. There is not a single word saying that the Reich Security Main Office, Amt III . . .

THE PRESIDENT: Don't raise your voice, please.

RÖSSNER: . . . that Amt III in Berlin had ever given any order to make these reports.

M. MONNERAY: Well, I will show you another document which, no doubt, is another isolated case. This time reference is made to the city of Erfurt. It is Document D-897, already offered by the British Delegation when they were submitting evidence against the Political Leaders, Exhibit GB-541. This is a secret circular of 4 April 1938, coming from the Erfurt SD branch office and addressed to all subsections, requesting all outside agents to send in reports urgently on all those persons who they were sure were going to vote "no."

This document makes you smile, Witness. However, if you look a little further down you will see that the matter was a serious one, for the Chief of the SD, a conscientious man, as you call him, says as follows:

> "The tremendous responsibility of the operational point leaders is stressed once more particularly with regard to this report, as they must be fully aware of the possible consequences for the persons named in their reports."

Witness, do you call this objective reporting?

RÖSSNER: I am sorry, Mr. Prosecutor. You spoke just now of the Chief of the SD—and the document is signed by a local Scharführer, a rank which is approximately corresponding to that of a private, first class, in the army. I do not think you can speak of the Chief of the SD. I am also sorry to have to state that this is certainly an exaggerated, isolated case, since to my knowledge it was never one of the assignments of the domestic SD to supervise elections.

THE PRESIDENT: M. Monneray, I think a good many leaders have already been examined on this document.

M. MONNERAY: Yes, Mr. President.

I will also draw the attention of the Tribunal to Document D-902, already offered in evidence as Exhibit Number GB-542, on the same subject.

THE PRESIDENT: Does the witness know anything about this document? Because if it is already in evidence there is no use putting it to him unless he knows something about it.

M. MONNERAY: Yes. It has already been submitted in evidence and I understand, Mr. President, that you do not wish me to interrogate on that document.

THE PRESIDENT: Well, if there is any particular reason for asking this witness questions upon this document, you may ask them; but there is no use putting a document to him if he has never seen it before, if it is already in evidence. I don't know what the document is.

M. MONNERAY: Mr. President, I wanted to ask this witness questions on both documents to show how little faith one can attach to his depositions since he declared before the Commission that it concerned an exceptional case; whereas, as a matter of fact, it seems that it was a general measure of the SD which was in force in many different parts of Germany.

THE PRESIDENT: If you want to cross-examine the witness as to the document, you can put questions from the document to him, but you can't—at least the Tribunal doesn't want you to put the document to him.

M. MONNERAY: Witness, you told us, concerning radio, that the SD furnished also very objective reports without any political intentions behind them; is that right?

RÖSSNER: Yes. Every week we sent in reports about the reception of the radio programs by the German population, as objectively as possible, including all critical opinion.

M. MONNERAY: I have submitted to the Tribunal a Document 3566-PS, already produced in evidence as Exhibit USA-658, which established that in this domain also the SD had a mission which was not merely objective reporting.

Witness, what was the work of Department III B 3?

RÖSSNER: I cannot say that from memory as I no longer remember the individual departments; in any case, it had nothing to do with radio as that was the task of III C 4.

M. MONNERAY: Is it right to say that they looked after questions concerning race and health?

RÖSSNER: I answered just now that I no longer remember the duties of that office.

M. MONNERAY: Did you have anything to do with or did you receive reports through your colleagues on the general situation of the foreign workers in Germany?

RÖSSNER: No. I personally had nothing to do with these matters. The question was quite beyond the scope of my duties.

M. MONNERAY: I should like to show to the Tribunal Document 1753-PS, which becomes Exhibit RF-1542, and which contains a report from one of the departments of the SD, concerning the possibility given by the RSHA to German doctors to practice abortion on female workers from the East, if they requested it. This report establishes that the statements of the SD on this matter are in no way objective statements, but that they definitely take a favorable view of the official policy of the Nazi State.

I submit another document, Document Number 1298-PS, which becomes Exhibit RF-1545, concerning slave labor by workers in Germany. In this document the person who wrote the report, who was an agent of the SD, after having mentioned the numerous desertions of foreign workers, recommends practical measures, such as reprisals against relatives by withdrawal of ration cards, and so forth.

Witness, you call objective reports those which do not of themselves support the policy of the Police, don't you?

RÖSSNER: Yes, for this is a report of one of the many subsidiary offices which existed under the Reich Security Main Office in order to obtain a cross-section of public opinion in which, of course, the opinions of members of the Party would also be registered.

Moreover, I would like definitely to refute the assertion of the prosecutor that it involved any agent of the SD. Amt III, as long as it existed, never had any agents in the field of domestic political intelligence, as I already stated this morning. I must again state that, concerning the technical questions which are dealt with in these documents, I can only take a subjective attitude because they did not concern my department. I still maintain my fundamental declaration concerning the duties of the SD, even in the face of these documents.

M. MONNERAY: But, Witness, this document was not addressed to the RSHA for general use; it was addressed to the Office for the Allocation of Labor. It is therefore a report dealing with the execution of those measures which are suggested, is that not so?

RÖSSNER: From the document which I have before me, it is not evident from what SD office it came.

M. MONNERAY: I am going to show you a photostatic copy of this report.

[The document was submitted to the witness.]

RÖSSNER: This also does not indicate in any way from which SD office the document was sent.

M. MONNERAY: Do you admit that the report is addressed to the Office for the Allocation of Labor?

RÖSSNER: Yes, but at the same time I would like to point out that under the signature it says, "Secretary"; and the SD, as far as I know, never had any secretaries. There should be an SD or an SS rank shown there.

M. MONNERAY: And the document says, "I am sending you herewith a copy of the report from the domestic SD."

RÖSSNER: Yes.

M. MONNERAY: In the occupied territories the SD was represented by organizations under Amt III and Amt VI, is that not so?

RÖSSNER: No, Amt III—here again I can speak only for Amt III—had no organizations which were directly subordinate to it, but only individual SD agents of Amt III who carried out the specific SD tasks in the occupied territories.

M. MONNERAY: Amt VI of the RSHA looked after the SD abroad, did it not?

RÖSSNER: Yes.

M. MONNERAY: And it had its representatives within the German police organizations operating abroad, did it not?

RÖSSNER: About this I can say nothing because I never worked in that office.

M. MONNERAY: I offer to the Tribunal in evidence Documents F-973 and F-974. The two documents will become Exhibits RF-1544 and 1545. These are information sheets and agents' reports sent by the office.

THE PRESIDENT: Go on. Have they been translated? Have copies been given to the German counsel?

M. MONNERAY: It has not been given to the interpreters because I am not going to read the whole document. The original is in German.

It is a report made out on a printed information form sent out by the SD agents to the competent services of the Gestapo, concerning the Jewish question; and thereby the relations existing between the two offices can be established, contrary to the statements of the witness.

THE PRESIDENT: Have these documents been translated into the various languages?

M. MONNERAY: Only into French, Mr. President.

THE PRESIDENT: Well, you know the rule is that they must be translated into four languages. You must read it then, if that is so.

M. MONNERAY: With the permission of the Tribunal, I shall read only one of the two documents, Section VI, Number 1.

THE PRESIDENT: M. Monneray, we have been a long time, and we have now apparently got to the stage that we have got to read this document, all these documents, which are of very remote importance. We have got to read them through because they have not been translated. It is taking up a long time; and it does not seem to be achieving any great result.

M. MONNERAY: Mr. President, I shall pass directly to the last point, concerning the resettlement of population.

Do you know, Witness, if the SD participated with the Gestapo in sending people into concentration camps?

RÖSSNER: I cannot say. From my personal knowledge, I can only say in general that Amt III had no executive duties at all and was, therefore, not empowered to send any people into a concentration camp.

M. MONNERAY: Do you know that the SD collaborated with the Gestapo to ascertain which Poles were capable of being germanized and which of them, on the other hand, should be sent to concentration camps?

RÖSSNER: No, I have no factual knowledge of any of these questions.

M. MONNERAY: I would ask permission merely to read an extract of Document R-112.

THE PRESIDENT: Is this new?

M. MONNERAY: It is a document which has already been offered in evidence, Exhibit USA-309.

THE PRESIDENT: Then you must not refer to it because the witness says he does not know anything about it.

M. MONNERAY: I would like merely to read the passage from this document which establishes, contrary to the statements of the witness who does not know these facts, that the SD did in fact collaborate with the Gestapo in selecting Poles to be germanized.

THE PRESIDENT: If there is anything in the document which shows that the witness is not telling the truth you can put that part of the document to the witness.

M. MONNERAY: The document refers to Amt III B of the SD and does not indicate any element which directly affects the witness.

Therefore, it bears only on the general question of the activity of the SD and does not affect the witness personally.

THE PRESIDENT: M. Monneray, the witness has just said that Amt III did not have anything to do with deportation of populations. If this document shows that it did, then you can put that fact to him.

M. MONNERAY: That is why, Mr. President, I was asking permission to read a passage of this document.

THE PRESIDENT: You can put the document to him.

M. MONNERAY: It is a letter of 1 July, signed by Streckenbach. It emanates from Amt III B 1 and it is addressed to the Gestapo, office of the SD, in the newly occupied territories of the East. This document says, on Page 2, first point:

> "The State Police (head) offices must immediately ask the branch offices of the DVL, the SD (head) Abschnitte and the Kripo (head) offices for all available material on persons belonging to Department 4."

Third point:

> "The chiefs of the State Police (head) offices and the leaders of the SD (head) Abschnitte, or their permanent representatives (in SD—chiefs of Department III B) must participate in the racial examinations in order to see for themselves the people involved."

On Page 3, the fourth point:

> "After the racial selection, the chiefs of the State Police (head) offices and the leaders of the SD (head) Abschnitte, or their permanent representatives (in SD—chiefs of Department III B) will verify in *common*"—this is underlined in the document—"the material available and will, if necessary, ask the Reich Security Main Office, Amt IV C 2, for arrest and consignment to a concentration camp. In particularly difficult cases the documentary files will first of all have to be sent to the RSHA, Amt III, III B."

On Page 4, the last paragraph of this order, signed by Streckenbach:

> "In execution of the current control of re-Germanization, the SD (head) Abschnitte in the old Reich territory . . ."

THE PRESIDENT: One moment. As far as I understand the document it clearly applies to Amt III. Well, why do you not put it to him?

M. MONNERAY: I should like to ask the witness afterward if he still maintains that Amt III had nothing to do with the Gestapo and had no authority to carry out arrests and send people to concentration camps.

First of all, I would like to finish reading the last paragraph.

THE PRESIDENT: All right, go on.

M. MONNERAY: "... the SD (head) Abschnitte in Reich territory proper will carry on in a similar manner with the supervision of Poles capable of being germanized and reporting on them to the Reich Security Main Office and the Higher SS and Police Leader; they should afford all assistance to the advisers on Germanization."

The report is signed Streckenbach.

Witness, this order really emanates from Amt III of the Reich Security Main Office, does it not?

RÖSSNER: Apparently some mistake has occurred, Mr. Prosecutor, because according to the document before me the document does not come from the RSHA at all, but from the Reich Commissioner for the Preservation of German Nationality. After the date of 1 July 1942 there is III B 1, it is true, but it has the letterhead "Reichskommissar für die Festigung deutschen Volkstums," an office which is completely separated from the RSHA.

M. MONNERAY: Well then, Witness, is it correct to say that according to this order signed by Streckenbach, the services of the SD, in common with those of the Gestapo, were to check their files and to request, if necessary, the arrest of people concerned and have them sent to concentration camps? Will you please answer "yes" or "no"?

RÖSSNER: Unfortunately, from my own experience I can give no information about that. In any case it is clear that the Reich Commissioner for the Preservation of German Nationality could give no orders to the SD, Amt III. Therefore, this document does not reveal at all what the SD did in practice in this matter. On this subject the competent expert should be questioned.

M. MONNERAY: You did not answer the question. According to this text, is it correct to state that the SD actively collaborated with the Gestapo in these matters?

RÖSSNER: I believe...

M. MONNERAY: "Yes" or "no"?

RÖSSNER: I cannot answer the question with "yes" or "no," but I think I have already answered it when I said that the Reich Commissioner for the Preservation of German Nationality could give no orders to the SD. I cannot judge, therefore, what the SD actually did, as these are two entirely different offices. As far as I know, the competent Gruppenleiter has already been heard before the Commission.

M. MONNERAY: You are still not answering the question. Is it true, "yes" or "no," that according to this text the SD collaborated with the Gestapo in screening people and, if necessary, had them arrested and sent to concentration camps?

RÖSSNER: I am sorry I must again repeat my answer to your second question. Since the Reich Commissioner could give no direct orders to the SD I cannot answer by "yes" or "no" as to whether the SD, on the basis of this order by the Reich Commissioner, actually collaborated with the Gestapo—and this is surely what you are aiming at.

THE PRESIDENT: I think the document speaks for itself and now I think the Tribunal had better adjourn.

[A recess was taken.]

M. MONNERAY: One last question, Witness, concerning this Document R-112. Who was the Reich Commissioner for the Preservation of German Nationality?

RÖSSNER: That was a supreme office.

M. MONNERAY: Which was under the authority of the Chief of the SD and the Chief of the German Police, is that not so?

RÖSSNER: Himmler.

M. MONNERAY: Do you maintain that this letter of 1 July, which came from Himmler's offices and was addressed at the same time to the Gestapo offices, the SD offices, and the Criminal Police offices, does not correspond with the real state of affairs?

RÖSSNER: From my own knowledge I can only point out once more that there are two completely different agencies concerned. To what extent the formulation of the document coincides with the actual work of the SD, I cannot, I repeat, judge from my own knowledge.

M. MONNERAY: I have no more questions to ask.

THE PRESIDENT: Dr. Gawlik—wait a minute.

LT. COMDR. HARRIS: May it please the Tribunal, we would like to offer, merely as a supplement to our last exhibit, a new document which has just come to our hands, which is Document 4054-PS and becomes Exhibit USA-921. The only significance of this document is that it shows that the SD was running agents in Los Angeles, California, shortly before the outbreak of war between the United States and Germany.

THE PRESIDENT: You have got a copy of this, Dr. Gawlik? Have you got a copy of it?

DR. GAWLIK: Yes.

THE PRESIDENT: Do you wish to re-examine?

DR. GAWLIK: I have no questions.

THE PRESIDENT: The witness can retire. And I think that finishes your evidence, Dr. Gawlik—that is all of your evidence, isn't it? That is all of your evidence, isn't it? Wait a minute. You have no more witnesses, have you?

DR. GAWLIK: I have no more witnesses, Mr. President.

THE PRESIDENT: In what order is it that the counsel for the organizations wish to proceed now?

DR. EGON KUBUSCHOK (Counsel for Reich Cabinet): It has been ruled that the witnesses for the Reich Government will be examined now.

THE PRESIDENT: Very well.

DR. KUBUSCHOK: I call the witness Dr. Franz Schlegelberger to the stand.

[The witness Schlegelberger took the stand.]

THE PRESIDENT: Will you state your full name please?

FRANZ SCHLEGELBERGER (Witness): Franz Schlegelberger.

THE PRESIDENT: Will you repeat this oath after me: I swear by God—the Almighty and Omniscient—that I will speak the pure truth—and will withhold and add nothing.

[The witness repeated the oath.]

THE PRESIDENT: Sit down.

DR. KUBUSCHOK: Witness, from what year on were you employed in the Ministry of Justice?

SCHLEGELBERGER: To begin with, I was judge in a common court of pleas, then in a court of appeals, and from 1918 I was first an assistant and then a Geheimer Rat (Privy Counsellor) in the ministry.

DR. KUBUSCHOK: When did you become State Secretary?

SCHLEGELBERGER: In 1931.

DR. KUBUSCHOK: At what time, after the death of the Reich Minister of Justice Gürtner, did you carry on the affairs of the Ministry of Justice?

SCHLEGELBERGER: From January 1941 until August 1942.

DR. KUBUSCHOK: Were you a member of the Party?

SCHLEGELBERGER: Originally I was not a member of the Party and I never requested admission into the Party. To my great

surprise I received a letter from the Chief of the Führer's Chancellery on 30 January 1938, saying that the Führer had decreed my admission into the Party. Of course I could not reject this letter, and I should like to call myself an involuntary member of the Party.

DR. KUBUSCHOK: Were you in very close personal contact with Minister Gürtner so that you were constantly kept informed by him of all questions, not only of the Ministry of Justice, but also of all general government questions?

SCHLEGELBERGER: Yes.

DR. KUBUSCHOK: Was Gürtner already Minister of Justice in the Papen Cabinet?

SCHLEGELBERGER: Yes.

DR. KUBUSCHOK: Was Gürtner previously Minister of Justice in Bavaria?

SCHLEGELBERGER: Yes.

DR. KUBUSCHOK: Did the activity of the entire Government which met for cabinet sessions in the first period of the Hitler Cabinet—I mean the time up to the promulgation of the Enabling Act—differ from previous practice?

SCHLEGELBERGER: No, the bills were thoroughly discussed and divergent opinions were debated.

DR. KUBUSCHOK: Did this change after the Enabling Act was issued?

SCHLEGELBERGER: Yes. The March elections and the adoption of the Enabling Act by the Reichstag had greatly strengthened Hitler's position. At first Hitler was quite reserved, modest, toward Von Hindenburg, or perhaps even embarrassed. Now he was filled with the thought that he was the executor of the popular will. Perhaps that can be explained by the facts that Hitler had directed all his activities to winning over the masses; that he now saw success; that he believed he had judged the will of the people correctly; that he considered himself the personification of the people's will; and that he wanted to realize the people's authority.

DR. KUBUSCHOK: Did the combining of the position of the Reich Chancellor with that of the Reich President in August 1934—beyond the general state-legal effects—have any influence on the position and functions of the Cabinet?

SCHLEGELBERGER: Yes; I see in this law the last step in the concentration of all the power in the person of Hitler, and I judge this law as particularly important because it was generally approved by the plebiscite.

DR. KUBUSCHOK: Was this development also expressed in the law of 16 October 1934 with regard to the oath of allegiance for the ministers—was the duty of obedience toward the Führer and Reich Chancellor now established for the ministers?

SCHLEGELBERGER: Yes; and this law meant that the ministers, like other officials, were now bound by directives.

DR. KUBUSCHOK: Did the ministers still have the possibility of resigning on their own wish?

SCHLEGELBERGER: No.

DR. KUBUSCHOK: Did later laws further restrict the activity of the Cabinet?

SCHLEGELBERGER: Yes. I am thinking of the law on the Four Year Plan and on the Ministerial Council for the Defense of the Reich.

DR. KUBUSCHOK: Were considerable parts of the governmental activity decentralized and assigned to special offices? I am thinking of the appointment of Gauleiter, Reich commissioners, chiefs of civil administration?

SCHLEGELBERGER: Yes; the Gauleiter were appointed Reichsstatthalter (Reich governors) and Reich defense commissioners. The Plenipotentiary for Administration was created, and the Plenipotentiary for Economy and Plenipotentiary General for the Allocation of Labor.

DR. KUBUSCHOK: Through the law on the unity of the Party and State, of 1 December 1933, did co-operation between agencies of the Party and State arise in practice or how did conditions develop in fact?

SCHLEGELBERGER: Whoever had believed in this co-operation was soon sorely disappointed. From the very beginning considerable dissension became apparent between the State offices and the Party offices and I can say from my own experience that an extraordinarily large part of the work became necessary because State agencies had to overcome the influence of the Party offices.

DR. KUBUSCHOK: For what purpose and under what conditions was the Enabling Act submitted to the Reichstag in March 1933?

SCHLEGELBERGER: The Enabling Act, which is called "the law to relieve the distress of People and Reich," was issued because the cumbersome machinery of the Reichstag worked too slowly and laws had to be created speedily. The Enabling Act was intended as a temporary solution only and for that reason it was limited to 4 years; later it was repeatedly extended.

DR. KUBUSCHOK: For what reasons were special courts established and what special circumstances prevailed in these procedures?

SCHLEGELBERGER: Special courts were already established temporarily during the Brüning Cabinet in 1931, and now they were created again because in this way it was planned to deal quickly with things which demanded urgent solution. This could be achieved only by excluding recourse to the law; but in order to do away with unjust procedure and unjust sentences, a number of clauses were introduced; that is, first, the resumption of suspended proceedings in favor of the defendant was facilitated; secondly, the plea of nullity to the Reich Court was allowed, which meant that the Reich Court could quash a sentence and substitute another; thirdly, an appeal extraordinary to the Reich Court was instituted, by means of which a completely new trial could be started; finally, an *ex officio* defense was instituted.

I may emphasize that the special courts and the legal facilities which I have mentioned were as much for the defendants as they were against them, that these special courts were regular judicial courts and not exceptional courts, and that they were conducted by three professional judges.

DR. KUBUSCHOK: What have you to say regarding the law of 3 July 1934, by which the measures of Hitler taken on 30 June 1934 were legalized?

SCHLEGELBERGER: According to Hitler's statement and corresponding to the text of the law, this concerned exclusively the SA men who, according to Hitler's statement, which was credible at the time, had intended a revolt. To that extent, the law was absolutely justifiable, because revolt meant a state of emergency in the sense of the term generally recognized in Germany. It was quite another thing with those victims of the incident who were not among the members of the revolt. Hitler stated that these cases should be prosecuted by the courts. A number of trials were started and ended in severe sentences. In a number of cases, however, Hitler used his legal right of veto—for example, in the case of Klausner and Edgar Jung—and as a result of the veto these cases could no longer be legally tried.

DR. KUBUSCHOK: Did you and the Reich Minister of Justice Gürtner know of the Nuremberg Laws before the decision was made at the Reich Party Rally?

SCHLEGELBERGER: No. I had already left the Reich Party Rally and learned of these laws, on the way, through the newspapers or radio. The Reich Minister of Justice, Dr. Gürtner, as I know for certain from him himself, was not informed beforehand of the intention to issue these laws.

DR. KUBUSCHOK: What was the purpose of the taking-over of the administration of Justice by the Reich?

SCHLEGELBERGER: This was primarily due to the general trend of centralization but beyond that, the Reich Ministry of Justice carried out this measure with the greatest energy. The Ministries of Justice of the Länder were all directed by National Socialist ministers and probably state secretaries, and this caused a number of embarrassing situations. The taking-over of the administration of Justice by the Reich had the effect that now it came into the hands of a Minister of Justice and his state secretary who were not National Socialists.

DR. KUBUSCHOK: What was the relationship between the Party agencies and the Ministry of Justice?

SCHLEGELBERGER: As a result of the transfer of the administration of Justice to the Reich, strong efforts were soon made by the Party to exert influence on the Ministry of Justice, first by way of personnel policy. The legal situation was such that according to an order of the Führer the Party had to be heard before a judge or a high legal official was appointed. The Party did not limit itself to commenting on the Ministry of Justice's candidates, but vigorously advocated candidates of its own. As soon as the minister, and later, I myself, became convinced that the Party wanted to have an unsuitable man in a position, we took recourse to obstruction by keeping the position open. Later it was filled by another man who was more suitable, at least in our opinion.

Repeatedly, we observed that in civil trials Party agencies approached the judges and tried to persuade them that in the public interests this or that decision was necessary. In order to spare the judges these painful discussions, at the suggestion of the Minister of Justice, the law on the co-operation of the State Prosecutor in civil cases was issued, according to which the judge to whom such a request was made could tell the Party agency, "Apply to the prosecuting authority, it is competent to assert the public interest."

I recall further a case in which the then Gauleiter Adolf Wagner announced at Munich that he was going to appear uninvited at a civil trial and make a speech in order to convince the court that this Party member enjoyed Party rights in a civil trial. On behalf of the Reich Minister of Justice, I then visited the Defendant Hess and asked him to prevent the appearance of Gauleiter Wagner and this wish was fulfilled.

Another means to influence justice was to criticize sentences of judges that they did not like. This criticism was made by the SS newspaper *Schwarzes Korps.*

THE PRESIDENT: Wait a minute. How does this evidence bear on the Reich Cabinet?

DR. KUBUSCHOK: The witness is particularly familiar with conditions in the Ministry of Justice, from his own activities. I am limiting myself to a few very significant cases in which the situation in the ministry is explained. I have no more questions on this point and I believe the witness is almost finished with his answer.

THE PRESIDENT: Go on.

SCHLEGELBERGER: The *Schwarzes Korps* repeatedly promised to stop the criticism but did not keep its promises. The Ministry of Justice took every opportunity at conferences with the presidents of the provincial appellate courts and the chief prosecutors to tell them they should point out to the justices that they were independent and should reject every attempt at intimidation and report all difficult cases to the minister.

DR. KUBUSCHOK: In cases of ill-treatment and excesses in concentration camps which became known to you, did the Ministry of Justice take steps to intervene?

SCHLEGELBERGER: According to my information the Minister of Justice intervened in all cases of which he obtained knowledge. As early as 1933 he employed two lawyers in the Ministry of Justice for the express purpose of investigating on the spot all cases which were reported, and to follow them up with great energy. Prosecution ensued and in many cases sentence was passed. Since the introduction of the special jurisdiction of the SS in 1939 these matters were withdrawn from the competence of the Ministry of Justice.

DR. KUBUSCHOK: What were the personal relations of the ministers to Hitler?

SCHLEGELBERGER: I believe one must make a distinction between Hitler's relations to the Party ministers and the non-Party ministers. Ministers who were not members of the Party, kept their distance; he likewise displayed distrust. Even with regard to the Party ministers I got the impression that the relationship varied greatly. I believe, for example, that Ministers Rust and Darré were not nearly as close to him as Göring and Goebbels. But even Party ministers were viewed by Hitler with distrust. This is already indicated by the fact that, as far as I know, there were even Party ministers who for years were not admitted to report personally to the Führer.

DR. KUBUSCHOK: Was Hitler's circle of close confidants from cabinet circles comparatively small?

SCHLEGELBERGER: Yes, very small. To my knowledge it was limited to a few persons.

DR. KUBUSCHOK: Did Hitler take measures to prevent cooperation of the members of the Cabinet or even personal contact between ministers?

SCHLEGELBERGER: Hitler's point of view was that frequent meetings of the Cabinet members were undesirable. From 1938 on he firmly prevented all attempts to return to the form of Cabinet meetings; he even expressly prohibited unofficial meetings such as "beer evenings."

DR. KUBUSCHOK: Did you and Minister of Justice Gürtner, before the outbreak of the war or before the beginning of any of the later hostile actions, know anything about Hitler's plans?

SCHLEGELBERGER: No. I may remark that I had the intention in the late summer of 1939 to take a cure in Marienbad. For that reason, as the situation was tense, I asked the Minister of Justice what he thought about it, and he said, "Go right ahead. I consider it out of the question that there will be any hostilities." Upon that I went to Marienbad, and returned only at the beginning of September when the war broke out.

DR. KUBUSCHOK: I have finished the examination.

DR. KEMPNER: Is it true, Dr. Schlegelberger, that the Reich ministers, which means the members of the Reich Cabinet, had the highest rank, had the highest responsibility, and the highest pay of all German officials?

SCHLEGELBERGER: Yes.

DR. KEMPNER: Is it correct to state that the appointment as a member of the Reich Cabinet was a completely voluntary act?

SCHLEGELBERGER: Yes.

DR. KEMPNER: Is it correct to state that a member of Hitler's Cabinet had the right to resign if he did not agree with Hitler's policy?

SCHLEGELBERGER: I believe not.

DR. KEMPNER: Do you know any Cabinet members or state secretaries like yourself who resigned?

SCHLEGELBERGER: One minister resigned.

DR. KEMPNER: What was his name?

SCHLEGELBERGER: Von Eltz-Rübenach.

DR. KEMPNER: Do you know a state secretary who resigned?

SCHLEGELBERGER: I do not remember.

DR. KEMPNER: What about yourself, Dr. Schlegelberger, did you not resign?

SCHLEGELBERGER: This question is not so easy to answer.

DR. KEMPNER: When did you leave your office?

SCHLEGELBERGER: In August 1942 I was dismissed by the Führer.

DR. KEMPNER: Is it a correct statement if I say you were dismissed because you did not like the policy of the Führer concerning the judges?

SCHLEGELBERGER: Yes, that is true.

DR. KEMPNER: Now, you remember that the Minister of Economics, Dr. Kurt Schmitt, resigned?

SCHLEGELBERGER: I do not know from my own knowledge whether Dr. Schmitt resigned or whether he was dismissed.

DR. KEMPNER: Then I should like to refresh your memory, and I show you an affidavit, a new document, a short one, which I give to the Court. And this document will become Exhibit 922.

DR. KUBUSCHOK: I should like to object to the admission of this affidavit. It deals with questions concerning the resignation of the witness which concern him personally and in which he is greatly interested personally. I believe that if this question, which in my opinion is not relevant, is to be discussed at all, we cannot avoid calling the witness who made the affidavit himself; he lives near Munich. I also believe that this affidavit is not suitable to prove the credibility of the witness Schlegelberger in any way. The details of the resignation of a minister need not be known to the state secretary of another ministry. The witness stated he did not know anything further about it. I believe, therefore, that the examination to test the credibility of this witness is not fulfilled by this document.

THE PRESIDENT: Dr. Kempner, the Tribunal thinks you should submit the facts of the resignation to the witness. Have you heard? That you should submit the facts of the resignation to the witness.

DR. KEMPNER: You know that another minister, Minister Kurt Schmitt, resigned? Do you remember now?

SCHLEGELBERGER: Yes, I remember that, of course, but I do not know whether he resigned or whether he was dismissed. That I do not know.

DR. KEMPNER: Do you know that Minister Schmitt resigned because he knew that Hitler's policy would lead to war?

SCHLEGELBERGER: That is unknown to me.

DR. KEMPNER: Now, another chapter. Is it true, that the Reich Cabinet became a legislative body of Nazi Germany through the Enabling Act?

SCHLEGELBERGER: Yes, through the Enabling Act.

THE PRESIDENT: Dr. Kempner, the Tribunal thinks you could put the first part of the affidavit to the witness.

DR. KEMPNER: I come back to the question of the resignation of Minister Schmitt and ask you whether the following is true or not:

"As Minister of Economics I was a member of the Reich Cabinet from 30 June 1933 until the beginning of January 1935. I resigned from the Cabinet 28 June 1934, formally for reasons of ill-health but factually because of deep differences of opinion with the policy of the Hitler Cabinet."

Are you informed about this, Dr. Schlegelberger?

SCHLEGELBERGER: I can only repeat, I know only that Herr Schmitt was Reich Minister of Economics and that he left the Cabinet. In what way he left, whether he was dismissed, whether he wanted to be dismissed, or whether he was dismissed for sickness or differences of opinion, I do not know.

DR. KEMPNER: But now you agree with me that you knew two ministers who resigned and who were neither killed nor put in concentration camps?

SCHLEGELBERGER: That is certainly true . . .

DR. KEMPNER: That is enough, that answers my question.

Is it true that the Reich Cabinet exercised its legislative powers continuously?

SCHLEGELBERGER: Yes.

DR. KEMPNER: Is it true that the Reich Cabinet had more than 100 meetings and passed numerous laws? Is that correct?

SCHLEGELBERGER: Yes.

DR. KEMPNER: Is it true that the Cabinet continued to pass and promulgate laws even without formal session, by circulating drafts of the laws among the Cabinet members? Is this correct?

SCHLEGELBERGER: It is true that when the Cabinet meetings stopped, laws and decrees were issued after being circulated.

DR. KEMPNER: Now, do you know how many laws were passed by the Reich Cabinet by means of this circulation method in the year 1939 for instance?

SCHLEGELBERGER: No, I cannot answer that.

DR. KEMPNER: If I tell you that in the year 1939 alone the Reich Cabinet passed the following laws . . .

THE PRESIDENT: Dr. Kempner, you can state what the fact is.

DR. KEMPNER: If I tell you that they passed 67 laws, would you say that is the correct statement?

SCHLEGELBERGER: If you say that it is true, Dr. Kempner, I accept it as such.

DR. KEMPNER: Do you know that the Reich Cabinet had also the duty of approving the Reich budget?

SCHLEGELBERGER: Yes.

DR. KEMPNER: Would you say that the members of the Reich Cabinet were informed about the things which were going on in Germany because they had to approve the budgets of all ministries?

SCHLEGELBERGER: I believe that very much can be gathered from the Reich budget but not necessarily everything.

DR. KEMPNER: Do you know...

THE PRESIDENT: Dr. Kempner, you are asking the next question a little too quickly. We did not hear the answer come through. I think the witness said that important matters were to be derived from the budget or something of that sort.

DR. KEMPNER: Would you repeat the answer please?

SCHLEGELBERGER: I believe that very much can be gathered from the Reich budget but not everything.

DR. KEMPNER: You know that the Reich budget had special provisions about concentration camps?

SCHLEGELBERGER: No, I do not know that.

DR. KEMPNER: When you were a Minister of Justice and acting Minister of Justice, did you have anything to do with the anti-Jewish legislation?

SCHLEGELBERGER: I believe that during the period in which I was active, one law or decree was issued in the year 1941. As far as I can recall, it concerned leases that affected Jews.

DR. KEMPNER: Do you remember that you yourself made up proposals, a legislative proposal, together with the Defendant Dr. Frick, to sterilize all half-Jews in Germany and the occupied territories?

SCHLEGELBERGER: No, I do not recall that.

DR. KEMPNER: Now I should like to show you a letter from the official files which has your signature, and you might remember—you might be able to refresh your memory by reading this letter. This will be my last question. And this will become Exhibit Number USA-923. Do you remember now that you put your signature under this terrible document?

SCHLEGELBERGER: Yes, I remember; yes, I remember it.

DR. KEMPNER: You remember that the Party and that the Defendant Frick proposed to sterilize all Jews and all half-Jews?

SCHLEGELBERGER: Yes.

DR. KEMPNER: And you remember that the various Cabinet members, like the Defendant Göring, the Chief of the Four Year Plan, that the Reich Minister of the Interior, Dr. Frick (attention of his Secretary of State), that the Foreign Office (attention of Under Secretary Luther) got copies of this legislative proposal?

SCHLEGELBERGER: Yes.

DR. KEMPNER: And you remember, on Page 1 of this document, that this legislative proposal to sterilize all Jews and all half-Jews should be submitted to Hitler?

SCHLEGELBERGER: I did not quite understand the question.

DR. KEMPNER: You remember that your and Minister Frick's proposal should be submitted to Hitler?

[There was no response.]

DR. KEMPNER: Yes or no.

SCHLEGELBERGER: Dr. Kempner, I beg your pardon; I still have not quite understood your question. I do not know what I am to try to remember.

DR. KEMPNER: Whether your proposal should be submitted to Hitler?

SCHLEGELBERGER: I believe so.

DR. KEMPNER: And you remember what Hitler said?

SCHLEGELBERGER: No, I do not remember that.

DR. KEMPNER: Is it a true statement that your Secretary of State, Freisler, told you, "Hitler does not like this sharp measure of the Reich Cabinet at the present time; he will postpone it until after the war"?

SCHLEGELBERGER: I do not remember that.

DR. KEMPNER: You regret deeply your signature under this law?

SCHLEGELBERGER: I can say "yes." I should like to add one thing only. At that time, there was already a serious struggle to obtain this limitation . . .

DR. KEMPNER: And you regret deeply these crimes; is that correct?

SCHLEGELBERGER: I regret greatly that I signed this.

DR. KEMPNER: Thank you. That is all.

DR. RUDOLF DIX (Counsel for Defendant Schacht): I ask the Tribunal to permit me to ask three questions of the witness, because these questions arise from the cross-examination by Dr. Kempner,

since the answers to these questions and the questions themselves concern the interests of the Defendant Schacht and his own testimony directly, and because the charge against the Reich Cabinet is now being discussed, and also because Schacht, in the period known to the Tribunal, was a member of the Reich Cabinet. For these reasons, I ask the Tribunal to make an exception and to permit me, after the cross-examination, although I am not a defendant's counsel for an organization, to ask questions of this witness.

THE PRESIDENT: Go on.

DR. DIX: Dr. Schlegelberger, was Hitler's signature necessary for the dismissal of a minister?

SCHLEGELBERGER: Yes.

DR. DIX: Do you recall that not immediately after 1933, but later, perhaps during the war only, Hitler expressly prohibited Reich ministers from handing in their resignation?

SCHLEGELBERGER: I may say the following: An order was issued changing the German civil servants law. According to this law, every official had the right to be released from his office. This right was abolished during the war. It was decreed that the release did not have to be granted, and as I recall, Hitler in following this decree actually did not accept resignations of ministers.

DR. DIX: Now, my third and last question: Herr State Secretary, in answer to Dr. Kempner's question about the departure of the former Minister, Von Eltz-Rübenach, you said that he had resigned. To assist your memory, may I point out that we heard here from Göring on the witness stand a modified version of this event which agrees with the recollection of the Defendant Schacht. Of course, I do not have the transcript of the Göring case before me and therefore I can only give Göring's testimony from memory. But I believe that in essence and effect I present it correctly. According to the testimony, this departure of Eltz developed as a result of the presentation of the Golden Party Badge to various ministers, including Von Eltz-Rübenach. When Hitler, with the idea of pleasing the ministers, had handed him this Golden Party Badge, Eltz started and made some remark to the effect of whether he was thereby incurring any confessional obligations. Hitler was annoyed at this, and the upshot was that Von Eltz-Rübenach left the Cabinet, which cannot exactly be termed a resignation on Von Rübenach's own initiative.

I believe that I have at least reproduced the sense of Göring's testimony correctly.

SCHLEGELBERGER: I know these events only from reports which I received from others. I myself was not present at the

incident. I have no reason to believe that the Defendant Göring, who was present, did not describe the facts as they actually happened.

DR. DIX: You say you know the story only from reports; that is, actual reports from Herr Gürtner, for example?

SCHLEGELBERGER: Yes.

DR. DIX: Do you still recall these reports, more or less? Or is what I have just said the first reminder?

SCHLEGELBERGER: No; I recall vaguely that according to Herr Gürtner's report, as Dr. Dix just stated, Von Eltz-Rübenach had put forward certain wishes for the Catholic Church, and that the Führer was annoyed at the wishes he had made and everything else had resulted from that incident. I can only repeat, if it is put to me, I have no reason to deny the correctness of an eye-and-ear witness.

DR. DIX: Thank you very much. I have no further questions.

THE PRESIDENT: I think we will adjourn now.

[The Tribunal adjourned until 3 August 1946 at 1000 hours.]

ONE HUNDRED AND NINETY-FOURTH DAY

Saturday, 3 August 1946

Morning Session

THE PRESIDENT: Dr. Siemers, you have an application, I think, to make. Haven't you been told about it?

DR. WALTER SIEMERS (Counsel for Defendant Raeder): No.

THE PRESIDENT: You wanted to apply for the witness Vice Admiral Bürckner; and also another request, that you should visit Vice Admiral Bürckner, and for three documents, a *Pocket Book of the Fleets* for the years 1908 to 1914 and a *Handbook of Seapower and Prestige at Sea* for the years 1906, 1912, and 1914; and thirdly, a historical work on the German Navy.

DR. SIEMERS: That is correct, Mr. President. I made these applications to the General Secretary for information purposes.

THE PRESIDENT: Well, that application is very late in the day unless there are special reasons for it. The Tribunal has already indicated that they propose only to hear or to grant applications for witnesses and documents for very special reasons and therefore they would like to hear you as to what the special reasons are.

DR. SIEMERS: Mr. President, I cannot yet see how far it will be necessary to go into some points in the course of the evidence for the General Staff. There are a few points which I would like to check and that is why I made this application to the Tribunal, but I requested it in order to be given the possibility of obtaining information for myself in the course of the Trial.

THE PRESIDENT: You are asking to go on a long journey to see Vice Admiral Bürckner before any evidence is called which makes it necessary.

DR. SIEMERS: As far as I know, Bürckner is in Ansbach.

THE PRESIDENT: Isn't it a fact that Vice Admiral Bürckner was here when he was summoned as a witness for the Defendant Jodl and that then he was not called and therefore left Nuremberg?

DR. SIEMERS: Mr. President, I do hope that this will not become necessary. The testimony for the General Staff, however, was only just now given before the Commission, and several questions arose

which I would like to discuss, because these are matters which did not come up in the earlier testimony for the individual defendants.

THE PRESIDENT: The Tribunal will consider the application.

DR. SIEMERS: I would like to add one thing, Mr. President. I had previously asked and I had been told by the General Secretary that no difficulties would arise from this and that if I wanted to speak to Admiral Bürckner again I could do so. So I did not think at the time that such great difficulties would be met with. I request the Tribunal, if it be possible, to grant me this opportunity.

THE PRESIDENT: The Tribunal will consider the matter.

[The witness Schlegelberger resumed the stand.]

THE PRESIDENT: Does Counsel for the Reich Cabinet want to re-examine this witness?

DR. KUBUSCHOK: Witness, a letter was shown to you yesterday, a letter which you had written to Reich Minister Dr. Lammers. How did you come to write that letter?

SCHLEGELBERGER: Of this letter to Dr. Lammers I wish to say the following:

On 6 March, at the request of the SS racial office, a conference took place concerning the treatment of part-Jews. I no longer know where the conference took place. In any case, it was not in the Ministry of Justice. At this conference proposals were made, which I considered absolutely impossible. The part-Jews were, without distinction, to be treated like Jews and deported to labor camps in Poland. In order to prevent decisions which I thought absolutely intolerable I applied to Reich Minister Lammers. I should like to emphasize here that to the Ministry of Justice this matter was only of secondary importance insofar as compulsory divorce was also suggested in connection with these proposals—a measure which was certainly very important but was a question of only secondary importance compared with the problem as a whole.

DR. KUBUSCHOK: Yesterday another one of your letters was then shown you, which was dated 5 April 1942 and which had been sent to various Party offices. The contents of this letter seem to be connected with the advisers' conference of 6 March. Can you say something more specific about these connections?

SCHLEGELBERGER: When I consider both letters, I can only say the following: Apparently, I had not been given the necessary support by Reich Minister Lammers. But under all circumstances, I wanted to have the proposal defeated. I realized that no progress would be made by a purely negative attitude, and, therefore, I had to make a positive proposal with the aim of limiting the number of people affected as much as possible. Therefore, I proposed to

exclude the following persons completely: First, part-Jews of the second degree, that is, part-Jews who had only one non-Aryan grandparent; also to be excluded were, secondly, those of the part-Jews of the first degree who were not capable of reproduction and, thirdly, part-Jews of the first degree who still had children living who were not half-Jews themselves. There still remained, therefore, only a limited number of part-Jews of the first degree. With regard to these, I proposed that they be given the opportunity to escape deportation by being sterilized. Finally, I opposed the compulsory divorce. Today I should only like to repeat what I said yesterday in my conclusion: I deeply regret that because of the jurisdictional conditions prevailing at that time and due to the forces at work at the time, I could not make a better proposal.

DR. KUBUSCHOK: Yesterday you were cross-examined and questioned about the retirement of the former Economics Minister Dr. Schmitt. Is it correct that Dr. Schmitt's retirement was the result of an illness lasting a month, that he had become incapable of work after he collapsed in a faint during a session, and that therefore his retirement came about purely from reasons of his personal health?

SCHLEGELBERGER: That is what I was told.

DR. KUBUSCHOK: Thank you. Then I have no further questions.

THE PRESIDENT: Witness, with reference to your letters to Dr. Lammers, which I understand were of the 6th of March and the 6th of April 1942, about which you have just been asked—you remember them?

SCHLEGELBERGER: I remember the letters.

THE PRESIDENT: What I understand is that the conditions in the working camps in Poland were, in your opinion, such that it would be preferable for half-Jews to be sterilized?

SCHLEGELBERGER: That is my opinion.

THE PRESIDENT: The witness may retire.

[The witness left the stand.]

I call on Dr. Pelckmann, Counsel for the SS.

MAJOR F. ELWYN JONES (Junior Counsel for the United Kingdom): If Your Honor pleases, before Dr. Pelckmann calls his SS witnesses, I have an application to make to the Tribunal with regard to the witness Sievers, who gave evidence before the Commission.

Yesterday, My Lord, about 16 new documents of great importance came to Nuremberg. They are from Himmler's files. Some

of these documents are letters written by this man, Sievers, himself. All of them relate to the work of an important component part of the SS, namely, the Ahnenerbe, the SS Ancestry Heritage Research Organization, of which Sievers was the head executive.

These documents also relate to the Institute for Scientific Research for War Purposes. My application is for leave to cross-examine Sievers before the Tribunal upon these documents. I make this application in view of the very great importance of these documents. In my submission their contents should go upon the record of this Trial. I do submit that the documents should be put to Sievers personally. In my submission they wholly controvert the testimony he gave to the commissioner, and I imagine the Tribunal itself may well want to question Sievers. It is in any event my intention, if you will allow me, to put these documents in. I do not think it will take much more time if I put them to the witness himself.

THE PRESIDENT: The witness of whom you are speaking has been called before the Commission, I understand?

MAJOR JONES: Yes, My Lord.

THE PRESIDENT: But he has not been called before the Tribunal nor applied for?

MAJOR JONES: No.

THE PRESIDENT: He is still in Nuremberg?

MAJOR JONES: Yes, My Lord.

THE PRESIDENT: He is not one of the witnesses who has been granted to Dr. Pelckmann?

MAJOR JONES: No, Sir; he is an additional witness.

THE PRESIDENT: I see.

MAJOR JONES: Dr. Pelckmann opposes my application.

THE PRESIDENT: Yes. Very well.

We will hear you upon that now, Doctor.

HERR HORST PELCKMANN (Counsel for SS): Your Lordship, I regret that I must oppose the request of the Prosecutor for permission to cross-examine the witness Sievers. I should like to say beforehand that by doing this I do not want to hinder the further clarification of the case of the SS and the further clarification of the charges against Sievers. My reasons are of a more fundamental kind and as follows: In no case can the cross-examination take place before the Tribunal now. Sievers is not one of the witnesses I have summoned before the Tribunal. The cross-examination can take place, if at all, only before the Commission. I must also oppose it, however, purely for reasons of procedure.

The Prosecution has for months, and perhaps years, been in possession of a very large quantity of documentary material, which had been confiscated. It was also in a position through its extensive auxiliary organizations, such as the CIC and the intelligence service, to examine witnesses who are in camps and whom it had already interrogated for more than a year. Therefore, it had every opportunity to prepare the cross-examination before the Commission. In my opinion, it would not be permissible for the Prosecution, despite these advantages which it has over the Defense, to continue taking evidence before the Commission now.

I shall expressly withdraw my objection if the request which I made months ago, to be allowed to look carefully through the Allied document offices for material for the Defense, is granted. I would consider that fair, in case the Tribunal wants to grant the request of the Prosecution. I would then be finally in a position to submit documentary material in rebuttal. I shall also expressly withdraw my objection if I am permitted, on the basis of the exculpating documents found in this way, to continue to examine witnesses before the Commission just as the Prosecution has now requested in the case of the witness Sievers. One can see that the Prosecution was able to produce further incriminating evidence only by a thorough investigation of the documentary material in the document offices. In view of this, would it not be fair if the Defense, too, were given this opportunity to look for evidence in rebuttal?

MR. DODD: Mr. President, before the Tribunal rules on this application, I would like to make one statement. This is the second time, at least, that Dr. Pelckmann has inferred that because he has been denied access to the document room that there is something oppressive about it as regards the Defense.

I want the record to be perfectly clear that we know what is in that document room, and we know perfectly well there is no document there that rebuts any evidence that has been offered in this case, and if there were, it would have been made available to this Tribunal and to these defendants. I think it is fair to say that we rather resent this implication from the Defense at this stage of these proceedings.

HERR PELCKMANN: May I add something to this? In my document book, if that is what counsel for the Prosecution meant, there are documents which I have found either in written material which has not yet been available or else in documents which I obtained after an exact description through the General Secretary and after decisions by the Court.

However, I must say that I am by no means in a position to indicate the exact documents, as the High Tribunal requires in

such cases, if I am not placed in a position in advance, just as the Prosecution is, to investigate the material in question. And this is the salient point. We see in this case how the Prosecution, in contrast to the Defense, especially with respect to the organizations, is able to collect material . . .

THE PRESIDENT: We have already heard you say that, and we fully understand the point.

The Tribunal grants the application that this witness should be produced for cross-examination here. That witness has already given evidence before the Commission, and in the opinion of the Tribunal, it is of importance that his evidence should be given fully and should be brought to light fully before the Tribunal. As these documents have only just come into the hands of the Prosecution, the Tribunal thinks it right that the documents should be put to the witness. It is the most convenient and the shortest course that they should be put to the witness before the Tribunal.

As to Dr. Pelckmann's objections that the Defense are not being treated fairly with reference to the investigation of the documents, the Tribunal thinks there is no foundation for this complaint. It would not be proper to allow the Defense to have what is in the nature of a fishing investigation into the thousands of documents which are in the hands of the Prosecution. If the Defense can specify any document that they want, they will be given a view of that document.

I have already said that in my opinion any document which is helpful to the Defense ought to be disclosed to them. That is the practice in the English courts, at any rate, and Mr. Dodd has informed the Tribunal now that if there were any document which were in any way helpful to the Defense in the Prosecution's document room, it would be made available to the Defense.

HERR PELCKMANN: I should like to say only that I did not say that the Defense was not being treated fairly, I said only . . .

THE PRESIDENT: I am explaining to you why the Tribunal do not think it is possible that the Defense Counsel should be allowed to rove about in the Prosecution's document room.

Now you may call your witnesses.

HERR PELCKMANN: I call the witness Freiherr von Eberstein.

[The witness Von Eberstein took the stand.]

THE PRESIDENT: Will you state your full name?

FRIEDRICH KARL FREIHERR VON EBERSTEIN (Witness): Friedrich Karl Freiherr von Eberstein.

THE PRESIDENT: Will you repeat this oath after me: I swear by God—the Almighty and Omniscient—that I will speak the pure truth—and will withhold and add nothing.

[The witness repeated the oath.]

THE PRESIDENT: You may sit down. Go ahead.

HERR PELCKMANN: I will be very grateful to Your Lordship if the interpretation could be organized in such a way that technical terms and the definitions of offices and personnel could be rendered, as much as possible, in the original text, the German text, because mistakes could frequently arise in the interpretation. In the SS organization there are so many special definitions which it is difficult to keep apart in an interpretation.

THE PRESIDENT: Well, the Tribunal thinks that it would be convenient to them if both the German denomination and the English were given—or the other language were given.

HERR PELCKMANN: Witness, were you before 1933 and after 1933 a member of the General SS (Allgemeine SS)?

VON EBERSTEIN: Yes, indeed.

HERR PELCKMANN: Had you already entered the so-called General SS in 1928?

VON EBERSTEIN: Yes, indeed.

HERR PELCKMANN: Witness, I should like to ask you to pause after each question, just as I am going to try to pause after each answer.

In 1928 did the SS have its own commander or was it under the commander of the SA?

VON EBERSTEIN: In 1928 the SS was under the Supreme SA Leadership. The Chief of Staff at that time was a Captain Von Pfeffer. Himmler was not yet Reichsführer of the SS. The SS was led by a certain Heid under the Chief of Staff.

HERR PELCKMANN: In spite of this did the SS already form a special organization?

VON EBERSTEIN: Yes, it was together with the SA under the Supreme SA Leadership.

HERR PELCKMANN: Did you belong to the General SS only in an honorary capacity, that is to say, not in a professional position, or were you an official?

VON EBERSTEIN: I belonged to the SS outside my regular profession. I had been a civil servant since 1934.

HERR PELCKMANN: Well, did you get any payments as an SS leader?

VON EBERSTEIN: No, I had my salary. Before 1933 I lived on my own fortune, and later I received the salary and in addition was reimbursed for my traveling expenses and got an extra allowance of 150 marks a month for sundries.

HERR PELCKMANN: If I understood you correctly, you received your salary as a civil servant?

VON EBERSTEIN: As a civil servant, yes indeed.

HERR PELCKMANN: And only a certain allowance extra for the expenses you had in the SS service?

VON EBERSTEIN: Yes, indeed.

HERR PELCKMANN: What were the reasons for your entering in the SS?

VON EBERSTEIN: At that time, in 1928-29, I was asked to join the SS because I had already been in the Party for some years and they considered my services valuable because I had been an officer. I joined the SS very willingly.

HERR PELCKMANN: Were you a veteran of the World War?

VON EBERSTEIN: Yes, I took part in the World War as an officer.

HERR PELCKMANN: What rank did you hold in the SS in 1930?

VON EBERSTEIN: In 1930 I was Sturmführer and Standarten-Adjutant.

HERR PELCKMANN: What rank did you hold in 1933?

VON EBERSTEIN: In 1933 I was SS Gruppenführer.

HERR PELCKMANN: Through your activities, did you acquire a good insight into the aims and activities of the SS before and after 1933?

VON EBERSTEIN: Yes.

HERR PELCKMANN: You are a member of the German nobility, Witness?

VON EBERSTEIN: Yes.

HERR PELCKMANN: Even in democratic countries, it is generally assumed that the nobility belongs to the respectable classes of the population. How does it happen that you became a member of an organization which, according to the allegation of the Prosecution, is supposed to have been criminal?

VON EBERSTEIN: I stood at all times for Germany, in keeping with the tradition of my family; and so when I became a member of the Party and of the SS, I felt that I was fulfilling a patriotic duty. Moreover, before 1933 a great number of aristocrats and

members of German princely houses joined the SS, such as, for example, the Prince von Waldeck, the heir apparent of the Grand Duke von Mecklenburg, *et cetera.*

HERR PELCKMANN: After 1933 was this movement even stronger?

VON EBERSTEIN: Yes, after 1933, the Prince von Hohenzollern-Sigmaringen became a member, as well as the heir apparent of the Duke of Brunswick, Prince Lippe-Biesterfeld, General Graf von der Schulenburg, and many others.

HERR PELCKMANN: Do you know that Archbishop Gröber of Freiburg became a sponsoring member of the SS?

VON EBERSTEIN: Yes, I know that.

HERR PELCKMANN: I refer the Tribunal to Document Number SS-45, which I shall hand in later.

[Turning to the witness.] Do you believe on the basis of your experience at that time that the membership of such prominent personages made an impression on members of all classes in Germany?

VON EBERSTEIN: On the bourgeois classes of our population, most certainly.

HERR PELCKMANN: I mean, made an impression in the sense that people said, if such fine people belong to the SS and work for its aims, then the aims governing the organization must be really good and legal. Do you mean that in this sense?

VON EBERSTEIN: Yes. In any case I am of the opinion, and it was also the opinion of my comrades, that at no particular time could we assume that the organization was following criminal aims.

HERR PELCKMANN: But did not the SS commit many acts of violence just before 1933, and was this not one of its aims?

VON EBERSTEIN: No. As its very name says, "Protection Detachment" (Schutzstaffel), this organization of the Party was set up in order to protect the leading personalities. Moreover, I might point out that as early as 1930 Hitler, in the trial of the Reichswehr officers, swore that his revolution would be an intellectual one and he planned to win the power in Germany by legal means. And, indeed, that came about through the elections, and so he became Chancellor of the German Reich.

HERR PELCKMANN: Please describe the activities of the SS, for instance in the year 1930 when you were in Thuringia, their numbers, increase in membership, and other such details.

VON EBERSTEIN: As I have already said, the SS was set up in 1928 and 1929 in Thuringia. Up to about the time of the Reich

Party rally in 1929, we had in all Thuringia approximately 45 or 50 SS men. At the Reich Party rally there were SS men from all Germany, approximately 700 men. In 1930 there were election fights in Thuringia, which necessitated the intensified commitment of these few SS men in order to protect the speakers. There can be no question of any other service besides that of protecting the speakers. There were some roll calls at which it was announced which speakers each SS man had to accompany. This protection was made necessary by the extraordinarily bitter political battle, and one was glad if the men returned to their quarters in the evening without having been wounded.

HERR PELCKMANN: How large was the SS in comparison with the other Party organizations at that time? Please speak more slowly. I notice that the interpreters are having trouble keeping up with you.

VON EBERSTEIN: I beg your pardon. The SS was by far the smallest formation of the Party. According to an order of the Supreme SA Leadership, it could never have more than 10 percent of the numerical strength of the SA.

HERR PELCKMANN: Where were you in 1933?

VON EBERSTEIN: In 1933 I was in Weimar, Thuringia.

HERR PELCKMANN: And in what position?

VON EBERSTEIN: As leader of SS Oberabschnitt Mitte, the biggest Oberabschnitt of the SS.

HERR PELCKMANN: How many SS men were under you at the time?

VON EBERSTEIN: After the seizure of power there were 10,000 to 15,000.

HERR PELCKMANN: What area did this number cover?

VON EBERSTEIN: The Free State of Saxony, the Free State of Thuringia and the Prussian Province of Saxony.

HERR PELCKMANN: How is the growth of the SS at this time to be explained?

VON EBERSTEIN: The increase can be explained, first, by the fact that the National Socialist Government had come to power and a large number of people wanted to show their loyalty to the new State. Secondly, after the Party, in May 1933, had ordered that no more members would be accepted, many wanted to become members of the affiliated organizations, such as the SS and SA, and thereby gain membership in the Party later on. But then again there were also others who sought the pleasures of sport and the comradeship of young men and were less politically interested. The reasons were very diverse.

HERR PELCKMANN: But after this period of sudden growth, were the members carefully screened, and were the former entrance requirements, namely, completely irreproachable conduct, clean way of life, high professional efficiency, made even stricter?

VON EBERSTEIN: Yes, indeed. From about February or March 1934, Himmler ordered an investigation of all those SS members who had joined in 1933, a thorough reinvestigation which lasted until 1935, and at that time about 50,000 to 60,000 members throughout the entire Reich were released from the SS.

HERR PELCKMANN: Was it necessary to be a Party member in order to be admitted to the General SS?

VON EBERSTEIN: No, not at all. I already mentioned that before.

HERR PELCKMANN: But if Party membership was not necessary, can it then be correct that the SS, as the Prosecution maintains, was the core of the Nazi regime, a group ideologically welded together, so that one can conclude therefrom that the strictest Nazi conditions, Nazi standards, were imposed upon admittance?

VON EBERSTEIN: The core of the regime was the political party as such, and this, indeed, lay in the hands of the Hoheitsträger. The leadership of the people was conferred upon the Hoheitsträger by Hitler as a privilege which they had and which they maintained until the end. That was the core of the regime. In the SS, to be sure, certain standards of selection were adhered to.

HERR PELCKMANN: But what did this selection refer to?

VON EBERSTEIN: The selection standards required a certificate of good conduct from the Police. It was required that people be able to prove that they led a decent life and performed their duty in their profession. No unemployed persons or people who were unwilling to work were accepted. In this respect, a careful selection was always required.

HERR PELCKMANN: But were not these principles of selection also extended to so-called racial conditions: height, health, origin?

VON EBERSTEIN: That was also prescribed; yes, indeed.

HERR PELCKMANN: And so, Witness, to sum it all up, the selection was not only made according to political but also to other circumstances which you have described?

VON EBERSTEIN: Yes, indeed.

HERR PELCKMANN: In 1933 and 1934, as an SS Gruppenführer and leader of the largest Oberabschnitt of the General SS, did you know of any excesses against Jews?

VON EBERSTEIN: No.

HERR PELCKMANN: During the testimony on another organization we heard here of the so-called boycott of Jews in 1933 and 1934. Did you not, together with your men, participate in this?

VON EBERSTEIN: The SS did not participate in this boycott—I might say these excesses. In Dresden when I heard about these matters I held a muster and strictly forbade my men to take part in them.

HERR PELCKMANN: Did you believe that you were committing a crime against humanity through the efforts to diminish the influence of the Jewish people in public life and economy to the percentage they represented in the total population?

VON EBERSTEIN: No.

HERR PELCKMANN: Did you want to attain this goal, which according to your ideology was probably in your mind, by the use of violence?

VON EBERSTEIN: No, under no circumstances. Indeed the SS had no influence at all on these matters.

HERR PELCKMANN: Was not the SS particularly strict to see to it that points of the Party program should not be realized by individual actions?

VON EBERSTEIN: Even before 1933 there were extraordinarily strict regulations. These regulations prohibited any individual action. For example, we had a very strict regulation against carrying any weapons, because it would have endangered the political activity of the Party if the Police had found weapons on us at that time. Even later on, Himmler repeatedly issued strict orders not to undertake any kind of action.

HERR PELCKMANN: Did you believe that by the repression of Jewish influence, which according to the National Socialist principles was constantly in your minds as an ideology—did you believe that thereby you were already making preparations for a new war, and, indeed, that by this planned new war the influence of an opposition within Germany would be made impossible?

VON EBERSTEIN: This is an artificial interpretation, in my opinion. I do not understand it. As far as the SS was concerned the Jewish problem had been solved by the State, by the announcement of the Nuremberg laws in 1935, laws which, by the way, surprised us. I remember, too, that at that time Hitler had warned us very strongly against going beyond these laws and pointed out the tremendous responsibility which was placed in the hands of the German people by this law.

HERR PELCKMANN: Did you perhaps believe that you could do something to prepare a war of aggression if you, or if the Party, or if the State excluded Communists or Socialists from public life?

VON EBERSTEIN: No.

HERR PELCKMANN: Well, did you ever consider anything like this at all?

VON EBERSTEIN: No. This question appears to me confused, for the circumstances were such that these matters never entered our minds.

HERR PELCKMANN: What preparations did you notice in the SS for a war of aggression?

VON EBERSTEIN: No preparations.

HERR PELCKMANN: Was the General SS given military training?

VON EBERSTEIN: No, it was not trained militarily, for sport and small caliber rifle shooting and drill exercises cannot be considered military training. May I also point out that Himmler forbade me and other SS leaders to participate in troop maneuvers as reserve officers of the Armed Forces after 1934 or 1935. From this alone it is perfectly obvious that no military training was given to the SS men or even planned. Moreover, every SS member, like any other German citizen, had to perform his military service within the Armed Forces and not in the Waffen-SS.

HERR PELCKMANN: I quote from Document Number SS-5, which will be submitted later:

"The General SS is entirely an organization of professional men."

This is a quotation from a publication, *National Political Course for the Armed Forces Organization and Duties of the SS and the German Police:*

"The greatest duties are imposed upon the man between the ages of 21 and 35, especially up to the age of 25. In these first 4 years it means marching, competitive games and sports of every kind.... Every SS man up to the age of 50 will have to pass some kind of efficiency test annually. Why is this? Most of the men are employed in civil professions; perhaps one-half to three-fifths of those in the SS are city dwellers. The city worker very often has a standing, or in the case of the intellectual worker, a sedentary occupation; in addition to that, there are the bad social conditions in the great cities, and in my opinion this is a grave problem from the military point of view. Most men of the twentieth century no longer walk, but use the subway, and so forth."

I quote further:

"If we are to remain young we must participate in sport. But all this remains only theoretical if the men are not

tested every year and a certain degree of ambition is not kindled among them so that they really participate in sport."

Witness, does this quotation describe the attitude that was typical of the activity of the SS, especially after 1933?

VON EBERSTEIN: Yes.

HERR PELCKMANN: Can you remember statements made by Hitler and other Party leaders at gatherings, and also at the Reichstag or in newspapers, which always contained protestations for peace and even expressed horror and fear of the ghastliness of war?

VON EBERSTEIN: Yes.

HERR PELCKMANN: Were there further tasks, for example, being in attendance and maintaining order at Reich Party rallies? Please describe this.

VON EBERSTEIN: Yes, the SS always had to maintain order at the great mass reviews of the Party. Besides preserving order, they had to accompany honorary guests and also take care of them. Those were always difficult and tiring days for the men, especially when they also had to participate in the parade. There is nothing else I can say about this.

HERR PELCKMANN: Did you have to take care of the honorary guests?

VON EBERSTEIN: Yes, I just mentioned that. At Party rallies I myself as well as other high SS leaders, had the task of guiding high-ranking guests around. At one of the last Party rallies I personally conducted the British Ambassador.

HERR PELCKMANN: Where were you, Witness, on 30 June 1934?

VON EBERSTEIN: In Dresden.

HERR PELCKMANN: Had you already heard before this date that Röhm was plotting a so-called Putsch?

VON EBERSTEIN: Yes, about 8 days before 30 June 1934, I was ordered to Berlin by Himmler where the latter officially informed me that Röhm was planning a *coup d'état* and gave me orders to hold my SS men in a state of quiet readiness for an emergency and to assemble them in barracks when the alarm was sounded. For this purpose he also referred me to the defense area commanders. And so in this way I received this information in advance.

HERR PELCKMANN: Did the General SS take part in any killings on 30 June 1934? What do you know about this from your activities at that time?

VON EBERSTEIN: The General SS did not carry out any killings in my territory. Indeed, it remained in barracks on all the decisive days.

HERR PELCKMANN: Please describe in detail how, in spite of all this, killings still took place, as I am informed.

VON EBERSTEIN: Yes. In the course of the day of 30 June a certain SS Obersturmbannführer Beutel came to me from the SD with a special order which he had received from Heydrich. He was a younger man, this Beutel, and he did not know what to do, so he came to me to obtain my advice, as an older man. He had an order in which there were listed approximately 28 names, and in a postscript it appeared that some of these men were to be arrested and others were to be executed. This document had no signature on it and therefore I advised this Obersturmbannführer to get positive clarification as to what should take place and warned him emphatically against any rash action. Then, as far as I know, a courier was sent to Berlin and this courier then brought back eight orders of execution which came from Heydrich. The order read approximately as follows: By order of the Führer and Reich Chancellor—and then followed the name of the person concerned—so and so is condemned to death by shooting for high treason.

These documents were signed by Heydrich. The signature was undoubtedly genuine and they were stamped with the official stamp of the office which Heydrich directed in Berlin; and on the basis of these documents eight members of the SA and the Party—eight persons in all—were shot by the political police of Saxony in Dresden.

Besides that, a Hitler Youth leader was shot in Plauen and still another person in Chemnitz. That is what I know about it, at least about my area.

HERR PELCKMANN: Did you have anything to do with these shootings as leader of the General SS?

VON EBERSTEIN: No; in no way. This order of the State leadership was executed by the political police. I could neither have supported it nor prevented it.

HERR PELCKMANN: Did you believe that Röhm was actually planning a treasonable undertaking and that the danger for the German Government and the German people was so imminent that only immediate action, that is to say, the shooting of those guilty, could save the situation?

VON EBERSTEIN: I believed absolutely that a state of national emergency existed. I had to believe so all the more since the highes German Police official, namely, Himmler, had told me so himself and had also expressly indicated that I should co-operate, in case of an alarm, with the defense area commander, who had a very authoritative office.

HERR PELCKMANN: Do you remember that immediately after these events the press published two telegrams from President Von Hindenburg? One of them was to the Führer, of 2 July 1934; and the other one, 2 July 1934, to Göring. I quote Document Number SS-74, which will be handed in later. Hindenburg's telegram to Hitler:

"From the reports which had been brought to me, I see that by your decisive initiative and by your brave personal risk you have nipped all the treasonable activities in the bud. You have saved the German people from a grave danger. For this I express to you my heartfelt gratitude and my sincere respect. With best greetings, Von Hindenburg."

The telegram from Hindenburg to Göring:

"For your energetic and successful action in crushing the attempt at high treason, I express to you my gratitude and respect."

Did you read these telegrams at that time in the press?

VON EBERSTEIN: Yes.

HERR PELCKMANN: Do you remember the speech which Hitler made before the German Reichstag on 13 July 1934, in which he also described how an immediate danger had apparently been hovering over Germany?

VON EBERSTEIN: Yes.

HERR PELCKMANN: Do you remember this—and I will quote only a very brief extract from Document Number SS-105 . . .

THE PRESIDENT: Dr. Pelckmann, don't you think that you can summarize this rather more? This witness has said that so far as his district is concerned the SS had nothing to do with the Röhm affair and it does not seem to be necessary to put all the details of it to him.

HERR PELCKMANN: I believe that I have only the following point to add to the Röhm Putsch—but perhaps that has already been exhaustively discussed—that, in fact, even afterward no suspicion of an illegal action could arise. That is what I wanted to do with this evidence to which I am referring.

THE PRESIDENT: You realize, don't you, as we have said over and over again, that we don't want to have the evidence given before the Commission repeated before us. What we wish is to have a summary and only the most important points dealt with and any new points; and, of course, we wish to see the witnesses in order to see whether they are credible.

HERR PELCKMANN: Yes, I will keep that in mind, Your Lordship.

THE PRESIDENT: Perhaps we had better adjourn now.

[A recess was taken.]

THE PRESIDENT: With reference to the applications by Dr. Siemers, both of those applications are rejected. Dr. Siemers, of course, may go and visit Vice Admiral Bürckner if he wishes to do so, but the particular application which he made in that respect is rejected and so is the other application which he made for certain documents which are in public libraries.

HERR PELCKMANN: One more question about 30 June, Witness. Do you recall from Hitler's speech, that he said that some innocent persons had been killed and that he guaranteed to have these cases judged by the regular courts?

VON EBERSTEIN: Yes.

HERR PELCKMANN: At that time did you hear the opinion, which you have also reported here today, expressed everywhere in your circle of friends that a state of emergency had existed?

VON EBERSTEIN: Yes, not only in the SS but also from other Germans.

HERR PELCKMANN: Witness, where were you on 9 November 1938?

VON EBERSTEIN: On 9 November 1938 I was in Munich.

HERR PELCKMANN: What position did you hold at that time in the General SS?

VON EBERSTEIN: In the General SS I was SS Obergruppenführer and Chief of the SS Oberabschnitt South. In addition, I was Police President of Munich.

HERR PELCKMANN: Please describe how you first heard of excesses against Jewish businesses during this night?

VON EBERSTEIN: On that day, in accordance with my official duty, I had to accompany Hitler to the meeting of the "old fighters" in the old City Hall. There Hitler was told that Legation Counsellor Vom Rath had died of his injuries. Hitler was very strongly affected by this and refused to speak, as he had always done before. During this dinner he had a very serious discussion with Goebbels. I could not understand what was being discussed. Shortly thereafter Hitler drove to his apartment. I had to accompany him there on my official duty. Immediately afterward I had to direct the security measures and the blocking-off of traffic on the Odeon Platz, a job for

which I was responsible. Every year, on the night of 9 to 10 November, a meeting was held there and new recruits were sworn into the Waffen-SS. When I came to the Odeon Platz it was reported to me that a synagogue was burning and that the firemen were being interfered with.

Shortly thereafter I received a telephone call from the Chief Magistrate (Landrat) of Munich who told me that Planegg Castle on the Munich city limits, which belonged to the Jewish Baron Hirsch, had been set afire by unknown persons. The constabulary asked for assistance. This was about 11:45 p. m. At midnight Hitler came to the swearing-in ceremony. Since I could not leave my post, I sent the next highest SS leader, Brigadeführer Diehm, to the synagogue to establish order there. Besides that, I sent a police raiding squad under an officer to Planegg in order to ascertain the perpetrators and put out the fire.

Immediately after the roll call, after the recruits were sworn in, the other higher SS leaders and myself were ordered to report to Himmler. There in the hotel the Deputy Gauleiter Niepolt informed me that following Hitler's departure from the Rathaus, Goebbels had made a wild speech attacking the Jews. As a result of this considerable excesses had occurred in the city. I immediately drove through the city in a car in order to survey the situation. I saw shop windows which had been smashed; a few stores were burning. First, I immediately intervened myself and then threw all the available police on the streets with instructions to protect Jewish business establishments until further notice. In addition to that, in co-operation with one of the municipal offices of Munich, I saw to it that the shop windows were boarded up to prevent thefts and so forth.

THE PRESIDENT: Dr. Pelckmann, the witness is saying that he took every step to prevent these excesses. I don't think we want the details. I don't think that we want to hear the details of the steps he took to prevent these things and to keep order. The Prosecution can cross-examine if they want to.

HERR PELCKMANN: Mr. President, is it not possible for me to submit to the witness just what he will be asked by the Prosecution? I consider it important that the witness himself should . . .

THE PRESIDENT: The witness has been telling us, for several minutes, what happened on the 9th and 10th of November 1938, and we think we know enough. We know the general nature of what he said and we don't want the details of it. If you think that he has not said that the SS did not participate in the excesses, you can ask him that question. He says as far as he is concerned that he did not take part, but that he tried to stop it. We don't want to hear the details of how he tried to stop it.

HERR PELCKMANN: What orders, Witness, did you give to the General SS against participating in the excesses and did the SS subordinate to you obey these orders?

VON EBERSTEIN: I told Brigadeführer Diehm that I strictly prohibited any action and I threatened severe punishment. We in the SS considered this action downright indecent.

HERR PELCKMANN: Do you know, Witness, that an Adjutant Schallermeier, on the night before 10 November, took dictation from Himmler, more or less to the effect that he disliked the whole action as mere propaganda of Goebbels and that Hitler had told Himmler that the SS was to keep out of this action?

VON EBERSTEIN: I do not know this document.

HERR PELCKMANN: I refer to the affidavit, Document Number SS-5, which will be discussed later.

You said, Witness, that this whole action was detested by the leaders and members of the SS. Do you attribute this to the basic attitude of the SS toward the Jewish question, or do you attribute it, as does a version which I have heard from another source, to the feeling that it was a pity that German national assets of such considerable value had been destroyed?

VON EBERSTEIN: I can only say that the SS, just like the Party, was anti-Semitic, but quite apart from any material loss, we considered this indecent and the SS did not participate in it.

HERR PELCKMANN: One more question on the preparation for wars of aggression: Do you know whether the General SS made preparations for the entry into Austria and whether it participated in this entry?

VON EBERSTEIN: No, the General SS did not participate in it. My Oberabschnitt covered the whole German-Austrian border. I would positively have had to know something about it.

HERR PELCKMANN: Do you know of any other preparation for an attack on Poland, Denmark, Norway, Holland, Belgium, France, and Russia, by the General SS?

VON EBERSTEIN: I know nothing of it and the General SS would certainly not have been in any position to attack a foreign state.

HERR PELCKMANN: After the beginning of the war, did the General SS continue to exist and what task did it then have to fulfill?

VON EBERSTEIN: The General SS had practically ceased to exist during the war. Of the 10,000 men which I had in my Oberabschnitt, there were only 1,200 left in the country, when the Volkssturm was called up in November 1944. These 1,200 men

had all been assigned to war work at home and were no longer available for SS service. They had been taken into the Armed Forces and the Waffen-SS to the last man.

HERR PELCKMANN: And so there were no more regular duties, such as you have described as existing in peacetime?

VON EBERSTEIN: No. There were even no men left for the tasks which still had to be performed, that is, the support of the work of the welfare detachments of the Waffen-SS, the care for the wounded in the hospitals, and the care for the dependents of our fallen comrades. We did this work with honorary members and even with women.

HERR PELCKMANN: Were the members of the General SS enlisted in place of the so-called Death's-Head units (Totenkopf Verbände) to guard the concentration camps?

VON EBERSTEIN: Yes, a small percentage, just as members of other branches of the Party, members of the Kyffhäuserbund, mostly men who could no longer be used at the front. These men were all liable for duty by virtue of the emergency service order. Toward the end of the war, members of all the branches of the Armed Forces, even citizens of allied states, provided guards for the concentration camps.

HERR PELCKMANN: I refer in this connection to Document Number SS-26 and Number SS-28. It has been asserted by the Prosecution that the General SS established concentration camps immediately after 1933, and that killings and atrocities occurred. What do you know about this?

VON EBERSTEIN: No concentration camps were established by the General SS. The concentration camps were established by the State. To what extent atrocities occurred there I cannot judge.

HERR PELCKMANN: Can you recall the case of an SS leader, Engel, in Stettin, in this connection?

VON EBERSTEIN: No. I knew Engel from the SS, but what he had to do with this I do not know. He was in northern Germany and I in southern Germany.

HERR PELCKMANN: In Munich you were Oberabschnittsführer of the General SS; at the same time you were Police President and from 1939 on you were Higher SS and Police Leader. Please comment as to whether the position of Oberabschnittsführer of the General SS was fundamentally connected, first with the position of Police President, and second, with the position of the Higher SS and Police Leader.

VON EBERSTEIN: As a matter of fundamental principle I can say "no" in both cases. There were exceptions. The Police Presidents of Düsseldorf, Nuremberg, and Munich were Oberabschnittsführer at the same time. In the second case I can say that the majority of Oberabschnittsführer of the General SS from 1939 on, that is, from the outbreak of the war, were also Higher SS and Police Leaders. An exception existed in Berlin, where the Higher SS and Police Leader was Heissmeyer, who was not Oberabschnittsführer of the General SS.

HERR PELCKMANN: Is the assertion of the Prosecution correct that the Higher SS and Police Leader established very close connections between the General SS and the Police?

VON EBERSTEIN: No. The SS and Police were separate organizations and were only united at the top, in the person of Himmler. The General SS and the Police had entirely separate tasks.

THE PRESIDENT: I don't understand what you are saying. I thought you said that you were the head of the SS in Munich and also the Police President.

HERR PELCKMANN: Mr. President, in order to inform the Court . . .

THE PRESIDENT: Didn't you say that you were the head of the SS in Munich and the south and also Police President?

VON EBERSTEIN: Yes.

THE PRESIDENT: And then you say the Police and the SS were only united in the person of Himmler.

VON EBERSTEIN: Yes. The sphere of duty of the Higher SS and Police Leader—I have not yet had an opportunity to describe this—he had no power of command over the Police, but he was only a representative of Himmler, without any power to issue orders. Thereby . . .

THE PRESIDENT: Do you mean that you had no power to give orders to the Police?

VON EBERSTEIN: In Munich, as Police President, yes. That was my state office, that was my profession. In other towns, however, where the Oberabschnittsführer was not Police chief, he could not . . .

THE PRESIDENT: I am talking about Munich. In Munich you were the head of the SS and you were also Police President?

VON EBERSTEIN: Yes.

THE PRESIDENT: The two organizations were united in you, is that right?

VON EBERSTEIN: In my case, yes, but not generally.

THE PRESIDENT: I am not talking about generally, I am talking about Munich. Then you go on to say that the Police and the SS were only united in the person of Himmler. Those two statements seem to me to be contradictory.

VON EBERSTEIN: I remarked before that only in three cases in all Germany were the Police Presidents at the same time leaders of the General SS. It was an exception in my case, in Munich, in Düsseldorf, and in Nuremberg. Otherwise . . .

THE PRESIDENT: I thought you said Dresden, too.

VON EBERSTEIN: In Dresden I was not in the Police.

THE PRESIDENT: I did not say you were. I thought you said the Police President in Dresden was also the head of the SS.

VON EBERSTEIN: No, that must have been misunderstood. I did not say that.

THE PRESIDENT: Very well.

HERR PELCKMANN: Witness, the misunderstanding probably arose because of a third function which has not yet been discussed. Please tell us, did the following three positions have any basic connection with each other: First, the Police President, secondly, the Higher SS and Police Leader, and thirdly, the SS Oberabschnittsführer? As a matter of fundamental principle, did these three have any personal connection in their structure?

VON EBERSTEIN: No, that in Munich was an exception. In my case they actually coincided but not in other parts of the Reich.

HERR PELCKMANN: And now please distinguish between police president and Higher SS and Police Leader. Please make clear to the Court what the difference is between these two positions.

VON EBERSTEIN: The police president was a state administrative official, while the position of Higher SS and Police Leader was created only during the war, without being designated an official authority or a regional commander; for according to the official instructions from the Reich Minister of the Interior, his sole task was to represent the Reichsführer SS and Chief of the German Police in his defense area (Wehrkreis). He did not have any authority to issue orders to the Police. According to the decree of the Reich Minister of the Interior, the chiefs of the main offices of the Order Police and Security Police remained the superiors of the Police. The power to issue orders rested with them. They used their own chain of command, while the Higher SS and Police Leader was secondary to them, without any authority to issue orders to the Police.

HERR PELCKMANN: And now, please, answer the question: Is the assertion of the Prosecution correct, that the Higher SS and Police Leader formed a close connection between the General SS and the Police?

VON EBERSTEIN: That was impossible . . .

THE PRESIDENT: You have already asked him that once and he has answered it. Let us go on to the next question.

HERR PELCKMANN: Is the more sweeping assertion of the Prosecution correct, that the General SS and the Police officially formed one unit, and so was a state within a state? Is this assertion correct?

VON EBERSTEIN: No.

HERR PELCKMANN: On this question, since I do not want to burden the High Tribunal with details, I shall refer to the depositions in the affidavits, Number SS-86 to Number SS-88, which I shall hand in later.

You have already said, Witness, that the Higher SS and Police Leader had no power to issue orders to the Order Police or to the Security Police. But did the Higher SS and Police Leader have the power to issue orders to the Waffen-SS or to the General SS?

VON EBERSTEIN: The Higher SS and Police Leader had no power to issue orders to the Waffen-SS; to the General SS only if he was leader of the SS Oberabschnitt of the General SS at the same time, not otherwise.

I ask to be allowed to add something to my previous answer. The Higher SS and Police Leader had the right, but not the duty, to carry out inspections, and he could make suggestions. For my part, I am only in a position to testify on the activities of the Higher SS and Police Leader in the home territory. What the procedure was in the occupied territories I cannot judge.

HERR PELCKMANN: To sum up your testimony, could one say that the title, Higher SS and Police Leader, is misleading?

VON EBERSTEIN: Yes.

HERR PELCKMANN: Concerning the testimony of the witness on the position of the Higher SS and Police Leader in the occupied territories with regard to Germany, I refer to an affidavit, Number SS-87.

[Turning to the witness.] In your capacity as Higher SS and Police Leader, did you ever receive information from the Reichsführer SS on the treatment of enemy fliers when they had to make emergency landings?

VON EBERSTEIN: Yes.

HERR PELCKMANN: For what purpose did you receive this information and how did you apply it?

VON EBERSTEIN: This announcement said it was not the task of the Police to interfere in altercations—I believe that was the expression—between the German population and enemy fliers who had bailed out. Nothing was said about any kind of treatment in this announcement. This announcement was signed by Himmler; and the Higher SS and Police Leaders were ordered by Himmler to inform the commanders of the Order Police and the inspectors of the Security Police thoroughly of the contents of this announcement.

HERR PELCKMANN: Were corresponding announcements sent previously or subsequently to Party offices by the Führer's Party Chancellery, Reichsleiter Bormann?

VON EBERSTEIN: Yes, to a great extent. There were announcements in the *Völkischer Beobachter,* in the paper *Das Reich,* and besides that, the Gauleiter of my district commented on them. Moreover, the commander of the Order Police and the inspector of the Security Police received this order from their superiors as well; I should like to remark that this was so throughout the entire Reich. A similar order was also issued by the main office of the Order Police, giving the same information to the Police offices, as well as by the Reich Security Main Office.

HERR PELCKMANN: On the basis of these decrees, did the attitude of the Police in your district change in any way in cases of landings by enemy fliers?

VON EBERSTEIN: In no way. It was a fundamental principle for us to adhere to the provisions of the Geneva Convention or the Hague Rules on Land Warfare; I do not know which of the two agreements applies here, but in any case it meant that prisoners should receive proper treatment.

HERR PELCKMANN: In spite of this, did the lynching of fliers occur in the district under you?

VON EBERSTEIN: No. Lynchings did not occur, but, unfortunately, there were some shootings of fliers. It so happened with us that the fliers were taken out of the Police stations and then shot. As I have now learned from the press, trials have been held on this account and the murders atoned for. I have been under arrest now for 15 months and get my information only from the papers. The reports of the trials indicate that the Police treated the fliers decently in every respect, bandaged their wounds, and turned them over to the Air Force, as was prescribed.

HERR PELCKMANN: Was it improper or a violation of the Hague Rules on Land Warfare if the fliers were arrested by the Police and not by the Armed Forces?

VON EBERSTEIN: I can give no judgment on these regulations of international law, as I said before.

THE PRESIDENT: He is not a witness on law. This is a matter for us to judge.

HERR PELCKMANN: Witness, was there a general order in existence since the beginning of the war that fliers who had made emergency landings had to be taken to a place of safety by the Police?

VON EBERSTEIN: Yes. The regulations read as follows: Fliers who bail out should be arrested by the Police. Besides that, according to German law, any other citizen was able to do this. Then they were to be taken to the Police. The Police stations had orders to inform the nearest Air Force office that the Police held enemy pilots and that the Air Force was to come for them. There was a binding rule that these captured fliers were to be turned over to our Air Force.

HERR PELCKMANN: What did you, as Higher SS and Police Leader have to do with the Gestapo and the SD?

VON EBERSTEIN: Nothing. According to existing regulations, the inspector of the Security Service informed the Higher SS and Police Leader of what happened in the sphere of the Gestapo or Security Service. These two agencies, the Security Service and the Gestapo, received their orders directly from the offices concerned, Amt III or Amt IV of the Reich Security Main Office.

HERR PELCKMANN: And so you had no power to issue orders to the inspectorates of the Security Police and the SD?

VON EBERSTEIN: I believe you made a mistake by saying, "inspectorates." I could not have any power of command over inspectorates.

HERR PELCKMANN: You had no power to issue orders to the Security Police and the SD?

VON EBERSTEIN: No.

HERR PELCKMANN: What did you, as leader of the Oberabschnitt of the General SS, have to do with the Gestapo or the SD?

VON EBERSTEIN: As Oberabschnitt leader I did not have anything to do with them.

HERR PELCKMANN: Was it so throughout the Reich that the leaders of the General SS had no power to issue orders to the Gestapo and the SD?

VON EBERSTEIN: Yes. The General SS had no executive powers, and besides that it was not allowed to become active as an intelligence service, that is, in the sphere of the Security Service.

HERR PELCKMANN: Did your corps area (Oberabschnitt), or did the divisional areas (Abschnitte), regiments (Standarten), and companies (Stürme) of the General SS have any official connection with the Gestapo or the SD?

VON EBERSTEIN: No.

HERR PELCKMANN: As Higher SS and Police Leader, or as Oberabschnittsführer of the General SS, what did you have to do with concentration camps up to September 1944?

VON EBERSTEIN: Nothing.

HERR PELCKMANN: Is it true for all the Reich that the Police Presidents, the Higher SS and Police Leaders, and the leaders of the General SS had nothing to do with concentration camps?

VON EBERSTEIN: Yes.

HERR PELCKMANN: What offices were responsible, first for delivery to and release from concentration camps, and secondly for the administration of the concentration camps?

VON EBERSTEIN: For commitment to and release from a concentration camp, Amt IV of the Reich Security Main Office was competent. For the administration and the internal affairs of the concentration camps, the Economic and Administrative Main Office of the SS was responsible, and of course Amtsgruppe D, Inspectorate of Concentration Camps.

HERR PELCKMANN: Therefore, can one conclude from your answer that for killings and atrocities committed against prisoners in concentration camps, neither the Police President of the district in question nor the Higher SS and Police Leader of this district, nor the leader of the Oberabschnitt of the General SS was responsible?

VON EBERSTEIN: None of the offices mentioned was responsible for such things. The concentration camp system was a strictly independent apparatus, with its own chain of command.

HERR PELCKMANN: Do you know the concentration camp at Dachau from your own experience?

VON EBERSTEIN: Yes. In the course of the years from 1936 on, when I was transferred to Munich, I often received orders from Himmler that I was to take high German and foreign officials to Dachau to show them the concentration camp. Among others, I took the Royal Yugoslav Minister of the Interior there, once some

high American police officials, a number of commanders of prisoner-of-war camps, high political personages from Italy, and so forth.

HERR PELCKMANN: Then since you say you had nothing else to do with the concentration camps, that was your only opportunity to obtain permission to enter them? And if I have understood you correctly, you received permission through the Reich Security Main Office just like the guests who were inspecting the camp?

VON EBERSTEIN: Yes; that is, I received orders to go there, and the guests received permission. It was done in the following way: Either Himmler's staff or the RSHA informed the competent camp commanders through the inspectorates of the concentration camps, that guests were coming with me as their guide.

THE PRESIDENT: We do not think you need go into the details of the exact way in which the orders went. We do not want the details.

HERR PELCKMANN: Aside from the Rascher case, which I shall discuss in a minute, did you ever have any official reason to visit the camp at Dachau?

VON EBERSTEIN: No.

HERR PELCKMANN: Did you, perhaps for other reasons, necessarily have the desire to obtain accurate information about conditions in the camp, perhaps because you had heard that mass killings were carried out there and that the people were starving to death?

VON EBERSTEIN: No, because from what I saw when I visited the camp everything was in order. The kitchen installation was shown, the hospitals, the dental station, the operating rooms, showers, barracks; and there was also an opportunity here to see numerous prisoners who, in my judgment, in peacetime—that is, before 1939—were in an outstandingly good state of health. After 1939—that is, during the war—they gave the impression of being normally fed.

There were also thousands of prisoners, in Munich, for example, who were employed in the removal of bomb debris in public squares and streets and everyone could see the prisoners. From my point of view, on the basis of the knowledge I gained during my visits to the camp, I had no reason to inspect them; and I had no right to do so, either.

HERR PELCKMANN: On these visits could you, because of your position, see more or less than the visitors whom you accompanied?

VON EBERSTEIN: I cannot judge. The tours led through the whole camp. For example, in the fall of 1944, the commanders of prisoner-of-war camps were shown through. They were all experts who were quite familiar with camps and went around wherever they liked in order to inspect everything.

HERR PELCKMANN: Did you ever hear anything about biological experiments on living persons in the concentration camp at Dachau, and if so, when?

VON EBERSTEIN: Yes. In the spring of 1944, in the course of Criminal Police investigations against an SS Hauptsturmführer, Dr. Rascher, a physician, and his wife. The Raschers were accused of Kindesunterschiebung. That is a word which is very difficult to translate. In our law it means the illegal appropriation of other people's children.

Secondly, Rascher was accused of financial irregularities in connection with the research station at Dachau, where these biological experiments were carried on. This research station was directly subordinate to Himmler, without any intermediate authority.

HERR PELCKMANN: Did you know anything of those experiments beforehand?

VON EBERSTEIN: No. It was only by accident that I found out about them.

HERR PELCKMANN: Please describe your investigation so that the Court may see that you did not close your eyes to such things.

VON EBERSTEIN: By reason of the events which had already been reported to the Criminal Police in Munich, I forced an entry into the camp at Dachau. I call your attention to the fact that it was already 1944, and communications were so bad that I could not wait long for approval. In a teletype message to the inspectorate I stated that anticipating its approval I would go with the officials to Dachau to make police investigations. I still had no idea of the biological experiments, but knew only of the two offenses mentioned first. And when in a talk with the camp commander I merely mentioned the name of Rascher, he, as well as the camp doctor, who had been summoned there, said that they considered Rascher a dangerous, incredible person who was carrying on the most abominable experiments on living human beings. He, Rascher, was vested with full powers from Himmler; and the camp commander and his personnel were so intimidated that up to the time when I intervened, they did not dare oppose Rascher's activity in any way.

They felt that I would afford them the protection of a high SS leader and so we came to discuss the experiments. Naturally, I did not release Rascher, who had been previously arrested by the Criminal Police, for fear of hushing up things and I immediately made

a personal report to Himmler in his field headquarters at Eigen near Salzburg; and, indeed, I did this without being asked and on my own decision.

Before that Himmler had already reproached me bitterly by telephone for interfering at all. He accused me of attempting to stage a sensational trial. I made the situation clear to Himmler, upon which he was very reserved toward me and said I did not understand anything about these things. He said that Herr Rascher deserved great merit for his research work. He promised he would keep the documents which I had brought and submit the Rascher case to the Supreme SS and Police Court for punishment. The Supreme SS and Police Court was competent because Himmler was Rascher's superior in this research office and Rascher was immediately subordinate to him. Unfortunately, he was not subject to the jurisdiction of my court.

HERR PELCKMANN: Were any proceedings brought against Rascher?

VON EBERSTEIN: No.

HERR PELCKMANN: What became of Rascher?

VON EBERSTEIN: Rascher remained under arrest as before. I kept complaining without interruption for weeks and months to Himmler's office and to the Supreme SS and Police Court. I learned later from the latter office that Himmler had not turned over the files to them at all.

HERR PELCKMANN: Did you learn later that Rascher was in a concentration camp?

VON EBERSTEIN: Yes. Rascher remained under arrest in the detention house of the SS barracks, Munich-Freimann, to all appearances until the barracks—at least the detention house was evacuated because of the approach of the American troops. He was then sent to Dachau and I learned from the press that he must have been shot during the last few days. I cannot give any further information about this, since I was relieved of my post on 20 April 1945.

THE PRESIDENT: Before we adjourn, perhaps you can tell us how long you are going to be with this witness.

HERR PELCKMANN: I assume 45 minutes, Your Lordship.

THE PRESIDENT: The Tribunal will adjourn.

[The Tribunal adjourned until 5 August 1946 at 1000 hours.]

ONE HUNDRED AND NINETY-FIFTH DAY

Monday, 5 August 1946

Morning Session

THE PRESIDENT: Yes, Dr. Pelckmann.

HERR PELCKMANN: Witness, on Saturday you said that the accused witness Rascher had finally been in a concentration camp. Did you approve of this settlement of the affair?

VON EBERSTEIN: No. I was of the opinion that these criminal deeds should be punished by court proceedings.

HERR PELCKMANN: If you did not approve of this settlement without a formal trial, what were you able to do about it and what conclusions could you have drawn?

VON EBERSTEIN: I repeat that I never ceased applying to Himmler's office and I made inquiries of the Supreme SS and Police Court. I may point out that the binding regulations of the Kriegsstrafverfahrensordnung (the war penal code) provided that Himmler alone was competent. All I could have done was to make a complaint about Himmler to Hitler, but in view of the existing situation, this was a practical impossibility. Neither an oral nor a written complaint or report from me would ever have reached Hitler.

I may explain that, despite my high position in the State and the Party and the 9 years of my official activity in Munich, I was admitted to see Hitler only once, for about 10 minutes, when he wanted a report from me on the traffic measures on the occasion of a big demonstration. That was the only time.

The only other thing I could have done was to resign. Due to the existing regulations, this would doubtlessly not have been accepted.

There was a last alternative either to commit dishonorable suicide or to refuse obedience as a soldier, for I was a general of the Waffen-SS and was bound by my oath of allegiance to the flag. Then I would have been court-martialed and sent to a concentration camp even at that time already.

HERR PELCKMANN: You just said that you were a general of the Waffen-SS. So far you have told the Tribunal only that you were a member of the General SS. When and for what reason did

you become a general of the Waffen-SS, although up to then you had had nothing whatever to do with the Waffen-SS?

VON EBERSTEIN: In the fall of 1944 Himmler became commander-in-chief of the reserve army. When he took over this office, the Prisoners of War Organization also came under his jurisdiction. In the fall of 1944 Himmler transferred to the Higher SS and Police Leaders the responsibility for safeguarding prisoner-of-war camps against mass escapes and against attempts from the outside to liberate prisoners. For this purpose, the Higher SS and Police Leaders were made senior commanders of the prisoners of war in their defense areas. According to international regulations regarding prisoners of war, police could not be used to guard prisoners of war, so the Higher SS and Police Leaders were taken over into the Waffen-SS and appointed generals of the Waffen-SS.

THE PRESIDENT: If you could go a little bit faster, if you could speak a little bit faster, I think it would be convenient to the Tribunal.

HERR PELCKMANN: The Prosecution construes the fact that Himmler, in September of 1944, as commander-in-chief of the reserve army, became Chief of the Prisoners of War Organization to mean that the SS was now in charge of prisoners of war. Is that true?

VON EBERSTEIN: That is not true. Apart from the senior commander of prisoners of war, no other member of the SS had anything to do with prisoners of war.

HERR PELCKMANN: The Prosecution further asserts that through the transfer of these prisoners-of-war tasks to Himmler or to the senior commander of prisoners of war in the fall of 1944, the inhuman treatment and destruction of Allied prisoners of war was systematically promoted by the SS. Is that true?

VON EBERSTEIN: No, because the camp commanders of the Armed Forces continued to be responsible for the running and administration of the camps from the inside. The task assigned to us was security, which began only outside the camp. Moreover, during the visits which I paid to the individual camps during the 6 months of my competency, I always asked the prisoners-of-war spokesmen personally whether they had any complaints. Not a single complaint of this kind was made to me by these men.

HERR PELCKMANN: As senior commander of prisoners of war from the fall of 1944 on, did you have anything to do with the employment of prisoner-of-war labor?

VON EBERSTEIN: No. The employment of prisoner-of-war labor was regulated by an Armed Forces staff for the employment of labor in co-operation with the regional labor offices or with the

parties needing labor. The senior commander of prisoners of war did not deal with this subject.

HERR PELCKMANN: From the fall of 1944 on, was there any change in your jurisdiction over concentration camps or your lack of jurisdiction over them, as you described it on Saturday?

VON EBERSTEIN: In the fall of 1944, as in the case of prisoner-of-war camps, the Higher SS and Police Leader was made responsible for safeguarding concentration camps from the outside, for the reasons just mentioned, with a view to maintaining the security of the State.

HERR PELCKMANN: Did the RSHA remain responsible for the delivery of prisoners to the camps and did Amtsgruppe D of the Economic and Administrative Main Office remain responsible for the administration of camps?

VON EBERSTEIN: Yes, Amt IV of the RSHA for internment and release; and for the internal administration of the camp, the inspection of concentration camps, Amtsgruppe D of the Economic and Administrative Main Office.

HERR PELCKMANN: Can you give an example from the last phase of the war of how difficult it was for you, because of your limited powers, to prevent the death of thousands of concentration camp inmates?

VON EBERSTEIN: Yes. At the beginning of March 1945 the Gauleiter and Reich Defense Commissioner Giesler in Munich ordered me to come to him, and made the monstrous request that I should use my influence with the commander of Dachau that at the approach of the American troops the prisoners—there were 25,000 people there at the time—were to be shot. I refused this demand with indignation, and I pointed out that I could not give any orders to the commander, whereupon Giesler said to me that he, as Reich Defense Commissioner, would see to it that the camp would be bombed to bits by our own forces. I told him that I considered it impossible that any German Air Force commander would be willing to do this. Then Giesler said he would see to it that something would be put into the soup of the prisoners. That is, he threatened to poison them.

As danger seemed imminent, I sent a teletype inquiry to the Inspector of Concentration Camps and asked on my own initiative for a speedy decision by Himmler as to what was to be done with the prisoners in case the American troops approached. Shortly afterward the news came that the camps were to be surrendered as a whole to the enemy. I showed that to Giesler. He was very indignant because I had frustrated his plans and because I was of a

different opinion. Shortly afterward we had another clash regarding the defense of Munich, which was completely hopeless. The Armed Forces commander was fired 8 days before me, and on 20 April I was also dismissed and all my offices were taken away from me and I was without power.

THE PRESIDENT: The man you are speaking of, the Gauleiter, was Gauleiter of what district? What Gau?

VON EBERSTEIN: Munich and Upper Bavaria. He was also Bavarian Minister President and Bavarian Minister of the Interior and Reich Defense Commissioner.

HERR PELCKMANN: Witness, you have just described the various characteristics of Gauleiter Giesler. According to the structure of the internal administration at the time, did he formally have the right to take the actions which he intended to carry out?

VON EBERSTEIN: Yes. In all questions concerning the defense of the country, the Reich Defense Commissioner could impose his will on the strength of the existing regulations for the Reich Defense Commissioners. In addition as I have already said, the man was Bavarian Minister President, and as such the supreme powers in the province were united in his person.

HERR PELCKMANN: In some of the final speeches of my fellow counsel for the chief defendants it was said that in the course of the war the SS—it was put in this form—the SS came to represent the Government in Germany. Will you please describe in whose hands, according to your opinion and your experience at the time and by virtue of your high position, in whose hands the executive power was, from 1933 to 1945?

VON EBERSTEIN: In any case, not in the hands of the SS. During the war, important functions of the Reich power were in the hands of the Reich Defense Commissioners, who could take part in everything except the Reich special administration. I need only refer to the Reich law of, I believe, 16 November 1942. Moreover, through the influence of Martin Bormann, everything inside the Reich was uniformly directed more or less by the Gauleiter and the Reich Defense Commissioners. The SS was at no time a decisive factor. The General SS, as I testified on Saturday, no longer existed at all, and the troops of the Waffen-SS were at the front.

HERR PELCKMANN: One more question, Witness. When and in what way did you learn that members of the Jewish population in your district were deported to the East?

VON EBERSTEIN: I believe in 1941 I learned about it by chance, that is, from a report of the Criminal Police of Munich—from the morning report—that in the preceding night a number of suicides had taken place in Munich. That attracted my attention as being

something quite unusual. I tried to clear up the matter by asking the chief of the Criminal Police why there had been these suicides. I believe there were six or eight in one night. He referred me to the Gestapo. Through the chief of the State Police I learned that the deportation of, I believe, a few hundred Jewish inhabitants of Munich or the district—I do not know whether they were all from Munich—had been ordered for that day. In answer to my question as to where they were to be sent, I was told that it was a resettlement and they would be put to work in the East, and I was informed that the trains had already been arranged for with the Reichsbahn headquarters and that on instructions from the RSHA to the Gestapo the selection of those concerned had been effected after discussion with the Israelite community, which was quite credible. The persons in question were in possession of certain amounts of money, of ration cards, and a certain amount of baggage. The train included cars with implements for fortifications, that is, pickaxes, spades, *et cetera*. That is what I learned at the time.

HERR PELCKMANN: How was it that you learned of these things in this way? Should you not have been informed previously in one of your official capacities?

VON EBERSTEIN: I could have been informed, but I can only describe how it actually happened.

HERR PELCKMANN: Then if I understood you correctly, there was no obligation on the Gestapo offices to inform you, was there?

VON EBERSTEIN: For the Gestapo undoubtedly not, but certainly for the inspector of the Security Police.

HERR PELCKMANN: Witness, you have attempted, in answering my questions, to say that you, as a leader of the General SS, committed no crimes as the Prosecution asserts—I have given some examples—and that the members of the General SS did not commit such crimes, so that in your opinion one cannot say that the General SS was a criminal organization. But I must now submit to you that in the course of a prolonged hearing proof of criminal deeds has been given. I remind you of the thousands of deaths in the concentration camps, of the thousands of Jews shot in the East by Einsatzgruppen and Einsatzkommandos, and I remind you of the gas chambers at Auschwitz. Now I ask you, what did you know of these things up to 1945?

VON EBERSTEIN: I knew nothing. During the whole war, without interruption, I was in Munich, and was never sent to occupied territories. I heard of the horrible mass murders and of the gassings while I was in prison. Today I know that it was impossible for a person who was not initiated to penetrate into the secret sphere of these extermination camps. There were indications

here and there. In my official capacity I now and then saw foreign papers which had been confiscated, but they contained things which, according to my opinion and experience, were not true. I therefore considered reports about such atrocities as fabrications of the enemy propaganda. I did not listen to enemy radio broadcasts. As the Tribunal knows, this was forbidden to every German and since it was our job to punish people who broke this law, I did not think that I should be allowed to do it myself. As for the mass of the men of the General SS, I am firmly convinced that they neither had a part in these atrocities nor did they know about them. I am firmly convinced that in view of the mutual confidence that existed between my men and me, they would certainly have asked me questions when they came to visit me on front leave. They would have asked me, "Obergruppenführer, do you know about these things? Is it true?" Not a single man asked me anything like that.

HERR PELCKMANN: On the basis of your knowledge of the organization and the facts that you have learned after the beginning of the Trial or after the collapse, do you maintain that the majority of the members of the General SS, for whom you are testifying here, had no part in these crimes?

VON EBERSTEIN: Yes.

HERR PELCKMANN: At the wish of the Court I have reduced the number of witnesses to the absolute minimum of five witnesses. I will bring only such witnesses who, due to their high position in the organization, can give the Court comprehensive answers on organizational questions, that is, basic questions. Therefore, notwithstanding your high rank, I must ask you how much, according to your conviction, the mass of these many thousands of unknown members of the SS knew? I will reserve the affidavits, documents, and other proof for later.

VON EBERSTEIN: If I, in my position and in spite of the general view I had of things inside the country, knew nothing, how could the men at the front or the few who remained at home know about it? The horrible things that happened later on in the concentration camps and which came to light after the collapse and the capitulation I personally can only explain by the general state of things during those last months. People lost their heads; hundreds of thousands of people were put on the move; thousands of detainees were brought from the border territory and crowded into the few camps which were still available. In southern Germany, in Dachau, there was an uninterrupted stream of people coming in throughout the winter. There was a typhus epidemic which claimed many victims. I learned of that also by chance only because the Gauleiter and Reich Defense Commissioner asked for workers to clear up after

air attacks, and from a call to the camp commander I learned that these workers could not be supplied due to a typhus epidemic.

Later, I heard at a conference that this epidemic had claimed many victims. Moreover, in the last few weeks, railroad traffic was disconnected. The supply line was completely blocked, and there was already a good deal of hunger. Upon my remark that it should be possible to stop this epidemic the commander told me there were no more medical supplies, the pharmaceutical factories having been destroyed too. Only thus can I explain the terrible pictures, which we all know, which have been shown here. In any case, the mass of the men of the General SS and the German population could not have known about all this as no one could look into the camps. The General SS, for which I am speaking here, and the Waffen-SS, too, could not have prevented it.

HERR PELCKMANN: Concerning the point which the witness mentioned, about the secrets in the concentration camps and the difficulty of penetrating into them, I refer particularly to the contents of affidavits—Numbers SS-64 to 67 and 69—affidavits of SS judges who concerned themselves with these things.

I have no more questions, Mr. President. Thank you.

MAJOR JONES: Witness, you denied on Saturday that the SS was the heart of Nazism. Would you agree with me that it was the fist?

VON EBERSTEIN: I did not quite understand. I beg your pardon.

MAJOR JONES: I will put the question to you again. You denied on Saturday that the SS was the heart of Nazism. Would you agree with me that it was the fist?

VON EBERSTEIN: I did not understand the word before "SS."

MAJOR JONES: I will put the question to you again. I am surprised that you cannot understand the question. I will try again.

You denied on Saturday that the SS was the heart of Nazism. Would you agree with me that it was the fist? This, the fist *[indicating]*.

VON EBERSTEIN: Oh, the fist. I assume that the prosecutor means to say that with this fist we waged an attack. I can only point out that we, as Schutzstaffel, had to protect leading personalities.

MAJOR JONES: What I meant by the fist was that the SS supplied the brute force of Nazism. Is that not so?

VON EBERSTEIN: I can only repeat what I described. Before 1933 we were a very small group of men who, up to 1933, amounted to about 25,000 to 30,000 men in the whole of Germany, which had

about 65 million people in 1933; and that this group was in no proportion to the size of the Party, and after 1933 . . .

MAJOR JONES: You are not answering my question, you know. You are wandering off into details that have no relevance to my question at all. I suggest to you that the killings by the SS on the 30th of June 1934 were a characteristic use of the SS as the fist of Nazism.

VON EBERSTEIN: The events of the 30th of June 1934 were, according to my firm conviction and to that of my comrades, the result of a state of emergency and the orders which were given were adhered to because they were the orders of the head of the State.

MAJOR JONES: You denied on Saturday that the SS had taken any part in the shootings of the 30th of June 1934. Are you seriously saying to the Tribunal that that is your evidence on that matter?

VON EBERSTEIN: I can only say that in my district the General SS were in the barracks of the Armed Forces and the Police, not on the street, and they did not shoot. The shootings . . .

MAJOR JONES: So you are saying that it was the Armed Forces and the Police that did the shootings, that it was the forces of General Keitel and the others who were doing the shootings, are you?

VON EBERSTEIN: I did not mention those two names, nor did I say that the Armed Forces had carried out the shootings. In answer to the question of the defense counsel, I told why I believed there was a state of emergency. I said that I received instructions to establish contact with the commander of the Wehrkreis, but that does not mean that the Armed Forces were to supply execution detachments or anything like that, but only that they wanted the Wehrkreis commander to give his consent to their being billeted in the barracks.

MAJOR JONES: You were a frequent visitor to Dachau, were you not?

VON EBERSTEIN: Yes.

MAJOR JONES: And you saw nothing there except good shower baths, good food, satisfactory sanitation; that was a rest camp? That was your evidence on Saturday about Dachau, was it not?

VON EBERSTEIN: I did not use the words "rest camp." I had been a soldier since 1904 and I had an idea what troop billets and a camp should look like. I can only repeat that everything was scrupulously clean, the sanitary installations which I saw were in excellent order, that in peacetime the prisoners were well nourished and, as I saw during the war, on the average their food was like the

food of every German outside. I can only say here on oath what I myself saw with my own eyes.

MAJOR JONES: Did you ever ask to see the punishment cells, the completely dark cells where people were kept for 3 months on bread and water?

VON EBERSTEIN: I can recall that such a tour through the camp was extended to the prison too. Unlike the huts, that was a stone building . . .

MAJOR JONES: If you answer my questions, we shall get on faster.

VON EBERSTEIN: Yes.

MAJOR JONES: Did you ever see the completely dark cells?

VON EBERSTEIN: I must say that one cannot see from the outside whether a cell is dark. Of course, any cell in any prison can be darkened. I did not see any. As Police President I know that for refractory prisoners there are cells without windows but I did not see them. I will admit, of course, that there could have been such cells.

MAJOR JONES: Did you ever ask to see the camp regulations for the punishment of prisoners who committed offenses in the camp?

VON EBERSTEIN: No, I did not demand that. The camp commander made an exhaustive report during the tours. I had no authority to intervene in affairs, of which I had no idea, before these guests.

MAJOR JONES: I just want you to look at what the regulations were as early as May 1933.

I put the Document D-922, My Lord, which will be Exhibit GB-548.

[Turning to the witness.] Now, these are the regulations for the camp of Dachau which was on your doorstep, you know, and you see in Paragraph 3 the punishments that can be imposed on prisoners:

> "The confinement may be mild, medium, or severe. The maximum term for the first two kinds is 8 weeks, and 3 months for severe imprisonment. This kind of punishment is generally served in solitary confinement. In the case of medium confinement, the person undergoing punishment receives a hard bed and only bread and water for food. The same conditions as to medium confinement apply to severe imprisonment, but in a dark cell."

And then, if you will look at Paragraph 8 of the regulations, you will see that there is given power of life and death to the camp

commandant of Dachau and his staff. And Paragraph 18 sets out the procedure to be followed in the event of charges of disobedience for which a death penalty is decided by a camp court, which consists of the camp commandant, one or two officers to be nominated by the camp commandant and an SS man belonging to the guard personnel:

"The prosecution is also to be undertaken by an SS man belonging to the camp commandant's office, who is to be nominated by the camp commandant. In the case of an even vote, the president of the camp court has the deciding vote. The president is the camp commandant at the time."

Did you know that the power of life and death had been given in that way to these SS men who were running the concentration camps, Witness?

VON EBERSTEIN: This document has no heading and no signature—may I point that out? I have not seen these regulations.

MAJOR JONES: I would be obliged if you would answer my question. Did you know that the power of life and death was given to the SS officials who ran these concentration camps, as far back as 1933?

VON EBERSTEIN: I do not know that. I cannot imagine such a thing. I assume that executions were ordered by higher authorities, but I cannot pass judgment on that as an expert.

MAJOR JONES: But you were the Higher SS and Police Chief for many years. You were Himmler's man, you know, were you not?

VON EBERSTEIN: In my testimony I have repeatedly stated that the Higher SS and Police Leader, the Oberabschnittsführer of the General SS, and the Police President had no influence whatever on internal arrangements in the camp and were not the superiors of the camp commander.

MAJOR JONES: But whether you had influence or not, you were a confidant of Himmler, his personal representative. Are you saying to the Tribunal that you did not know what the details of Himmler's murderers' organization were?

VON EBERSTEIN: As to these punitive regulations about which I am reproached, and which imply a jurisdiction, I can only say that they were unknown to me, and that Himmler never once spoke to me about these things; nor did I ever receive regulations concerning concentration camps.

MAJOR JONES: Did you ever hear of Oswald Pohl?

VON EBERSTEIN: Yes.

MAJOR JONES: He was the head of the Economic and Administrative Main Office of the SS, was he not, the WVHA?

VON EBERSTEIN: Yes.

MAJOR JONES: Did you know that this organization, using SS personnel, was employing murder as a means to establish loot on a colossal scale for the benefit of the Waffen-SS and other SS organizations?

VON EBERSTEIN: Yes; I heard that from the reports on this Trial while I was in the camp. I had never heard before that gold teeth, *et cetera,* were collected.

MAJOR JONES: Did you know of the great business in death that was bringing millions of marks to the coffers of the Reichsbank? And it was involving numerous departments of the Third Reich.

VON EBERSTEIN: No, I did not know that.

MAJOR JONES: Let me just read to you Oswald Pohl's affidavit, given to Dr. Kempner upon this matter—it is Document 4045-PS, which will be GB-549—so that perhaps your memory may be refreshed. The affidavit reads:

"1. My name is Oswald Pohl. I was born in Duisburg, Germany, on 30 June 1892. Since 1 February 1934 I was Chief of the Economic and Administrative Main Office of the SS (WVHA). I occupied this position permanently until Germany's capitulation.

"2. Through my activity as Chief of the WVHA I remember clearly two large business deals between my office and the Reich Ministry of Economics and the Reichsbank of Herr Walter Funk. One deal concerned textiles from persons killed in concentration camps. In this connection Himmler endeavored to procure through the Reich Minister of Economics, Walter Funk, a higher allotment of uniform cloth for the SS. The other deal concerned the business connection of my office with Reichsbank President Walter Funk and the Reichsbank with regard to jewelry, rings, gold teeth, foreign exchange, and other articles of value from the possessions of people, particularly Jews, who had been killed in concentration camps.

"3. The connection of my office with the Reichsbank with regard to textiles of persons who had been killed in concentration camps was instituted in the year 1941 or 1942. At that time I received the order from the Reichsführer SS and the Chief of the German Police, Heinrich Himmler, who was my chief, to get in touch with the Reich Minister of Economics, Walter Funk, to obtain a higher allotment of textiles for SS uniforms. Himmler instructed me to demand from Funk that we receive preferential treatment. The Minister of Economics was receiving from the concentration camps a large delivery

of textiles. These textiles had been collected in the extermination camp Auschwitz, and other extermination camps, and then delivered to the competent offices for used textiles.

"4. As a result of this order received from my superior, Himmler, I visited the Reich Minister of Economics Funk in his offices. I waited only a short while in his anteroom and then met him alone in his private office. I informed Funk of my instructions that I was to ask him for more textiles for SS uniforms, since we had been able to deliver such large quantities of old textiles due to the actions against Jews. The meeting lasted around 10 minutes. It was openly discussed that we perhaps deserved privileged treatment on account of the delivery of old clothes of dead Jews. It was a friendly conversation between Funk and myself and he said to me that he would settle the matter favorably with the officials concerned. How the subsequent settlement between Funk and his subordinates and my subordinates was handled in detail, I do not know.

"5. The second business deal between Walter Funk and the SS concerned the delivery of articles of value of dead Jews to the Reichsbank. It was in the year 1941 or 1942, when large quantities of articles of value, such as jewelry, gold rings, gold fillings, spectacles, gold watches, and such had been collected in the extermination camps. These valuables came packed in cases to the WVHA in Berlin. Himmler had ordered us to deliver these things to the Reichsbank. I remember that Himmler explained to me that negotiations concerning this matter had been conducted with the Reichsbank, that is, Herr Funk. As a result of an agreement which my chief had made, I discussed with the Reichsbank Director, Emil Puhl, the manner of delivery. In this conversation no doubt remained that the objects to be delivered were the jewelry and valuables of concentration camp inmates, especially of Jews, who had been killed in extermination camps. The objects in question were rings, watches, eyeglasses, ingots of gold, wedding rings, brooches, pins, frames of glasses, foreign currency, and other valuables. Further discussions concerning the delivery of these objects took place between my subordinates and Puhl and other officials of the Reichsbank. It was an enormous quantity of valuables, since there was a steady flow of deliveries for months and years.

"A part of these valuables from people killed in death camps I saw myself when Reichsbank President Funk and Vice President Puhl invited us to an inspection of the Reichsbank vaults and afterward to lunch. I do not remember exactly whether this was in 1941 or in 1942, but I do remember that

I already knew Funk personally at that time from the textile deals which I have described above. Vice President Puhl and several other gentlemen of my staff went to the vaults of the Reichsbank. Puhl himself led us on this occasion and showed us gold ingots and other valuable possessions of the Reichsbank. I remember exactly that various chests containing objects from concentration camps were opened. At this point Puhl or Waldhecker, who accompanied him, stated in my presence and in the presence of the members of my staff that a part of these valuables had been delivered by our office.

"After we had inspected the various valuables in the vaults of the Reichsbank, we went upstairs to a room in order to have lunch with Reichsbank President Funk; it had been arranged that this should follow the inspection. Besides Funk and Puhl, the members of my staff were present; we were about 10 to 12 persons. I sat beside Funk and we talked, among other things, about the valuables which I had seen in his vaults. On this occasion it was clearly stated that a part of the valuables which we had seen came from concentration camps."

Now, is the material contained in that affidavit news to you, Witness?

VON EBERSTEIN: Yes, absolutely.

MAJOR JONES: You had no knowledge of it at all?

VON EBERSTEIN: No.

MAJOR JONES: Did you know that SS personnel were used for the great manhunt of Jewish people all over Europe?

VON EBERSTEIN: I have read reports here during the Trial that a certain Eichmann, an SS member, had this task. I never saw Herr Eichmann; I never had anything to do with him. I know the facts from the reports of this Trial.

MAJOR JONES: Did you know that one of the objects of these manhunts, apart from murder, was to secure loot for the SS and for kindred Nazi organizations?

VON EBERSTEIN: No, I did not know that. I may point out that I was always at home and never had anything to do with these matters.

MAJOR JONES: Did you know your colleague, Higher SS and Police Chief Globocznik?

VON EBERSTEIN: Yes; I met Globocznik once at a Führer meeting. I talked to him once.

MAJOR JONES: He was a Higher SS and Police chief like yourself, was he not?

VON EBERSTEIN: No, I do not believe so. At that time he was Oberführer or Brigadeführer. As such he could not be Higher SS and Police Leader. And it was certainly not in Germany, I know that.

MAJOR JONES: We may be at cross purposes. I am speaking of the year 1943. In that year Globocznik was Higher SS and Police chief in the operational zone of the Adriatic coast, was he not?

VON EBERSTEIN: That may be; I do not know. It is possible—but not in the Reich.

MAJOR JONES: You have said as to your own position as Higher SS and Police chief that you had no power of command over the SS and no authority over the Police. That seems to have been a summary of your functions as Higher SS and Police chief; is that right?

VON EBERSTEIN: Yes. I may remark that I expressly emphasized not only before this Tribunal but before the Commission as well that I cannot testify concerning the powers of the Higher SS and Police Leaders outside of Germany because their tasks were different . . .

MAJOR JONES: That is enough. I can assist you in that case. I want you to look at a report of your colleague, Globocznik, on the "Action Reinhard" against the Jewish people of Poland.

It is Document 4024-PS, which will be Exhibit GB-550. It is a lengthy report. My Lord, with respect, it does merit the attention of the Tribunal.

Witness, you see that it is a report from Globocznik to Himmler, dated 5 January 1943. The letter starts:

> "Reichsführer, I am taking the liberty of submitting to you the enclosed report on the economic winding-up of the Action Reinhard."

In the next paragraph:

> "A proper winding-up and my release are necessary because I carried out this activity within the framework of the SS"—I would like to underline these words "within the framework of the SS"—"and it must therefore be wound up in a proper manner with regard to the competent Reich authorities."

Then in a later paragraph it goes on:

> "The summary accounting contains two parts:
>
> "1) The economic part of the Action Reinhard with the items: a) accounting and delivery of the assets seized, and b) accounting of the assets obtained by the work.

"2) The Settlers' Economic Association whose economic activity also depended on my work, and which is now being transferred to civilian hands."

Witness, that so-called resettlement was one of the functions of the SS organization?

[There was no response.]

Then there follows on Page 2 of the German text of this report:

"There is one additional factor to be borne in mind, when rendering the summary accounts for 'Reinhard,' which is that the vouchers dealing with it must be destroyed as soon as possible."

Now, the next document, Page 3 of the German text and Page 2 of the English . . .

THE PRESIDENT: Where is this part about the vouchers being destroyed?

MAJOR JONES: Paragraph 3, My Lord. Globocznik marked it "2—The Settlers' Economic Association"—in the next sentence to that.

[Turning to the witness.] Page 2 of the English text is a report on the economic aspect of the Action Reinhard. There are four copies only of that report. It was gathered together in the SS Economic and Administrative Main Office.

It says:

"The entire Action Reinhard is divided into four parts: A) The evacuation itself; B) the employment of labor; C) the exploitation of property; D) seizure of hidden goods and landed property.

"A) The evacuation.

"This is settled and completed.

"In this case the prerequisite was to get hold of the people with the small forces available and to cause as little economic damage as possible to war production by methodically appropriate measures.

"On the whole this has been achieved. Considerable damage occurred only in Warsaw, where, owing to ignorance of the position, the methods applied in the final action were entirely wrong."

Then I go to Paragraph B, employment of manpower.

"The entire manpower was put into closed camps, to which essential war production was transferred.

"For this purpose the following conditions had to be created: 1) Establishment of all camps; 2) establishment of work shops with all the technical equipment, the purchase of machinery,

the power supply, *et cetera;* 3) the organization of the supply . . .; 4) sanitation and hygiene . . ."

Then I want you particularly to notice:

"5) Security measures: a) Achieved by adequate security precautions; b) by a protective organization within the camp; c) by adequate guarding. For this purpose the SS guards were created, the overwhelming majority of whom, led by Germans, carried out their duties satisfactorily. Their reliability was increased by mixing these guards with Reich German guards from concentration camps. d) The prerequisites for a satisfactory security system were created by these camps being taken over by the concentration camp department of the WVHA.

"6) The proper administration and methodical treatment were made possible thanks to the extensive training of the German personnel. It became apparent that the working capacity of the Jews in the camps was constantly increasing."

And then there is described the creation of a works management under the name of "Osti" and the German Equipment Works:

"A total of 18 plants was established; it was intended to add more. About 52,000 workers were available. These conditions of work made it possible to accept urgent orders both from the armament inspectorate and from Speer's Reich Ministry, and thus replace bombed-out plants. The demand from these offices was considerable. Osti and the German Equipment Works were run by me, whereas other plants, such as the Heinkel Aircraft Works, were only looked after by me."

And then Paragraph C is on Page 5 of your German text: "Exploitation of property." This has been completed, as shown in Enclosure 2 which I shall come to in a moment.

Paragraph D:

"Seizure of hidden goods. The seizure of hidden goods and exploitation of property is divided into:

"1) Property such as machinery, raw materials, *et cetera,* handed over by the Osti to Aryans. To date the result is 6.3 million Reichsmark; a further 7 to 8 million Reichsmark are yet to be brought in."

Paragraph 2:

"Seizure of Jewish claims at home and abroad by forcing the camp inmates to cede these claims to the Osti, which then carried out the recovery. The first attempt resulted in a cession of an amount of 11 million zlotys, of which at least half appeared obtainable. However, since it was also possible to

discover that money had been smuggled abroad, this action could have brought valuable foreign currency to the Reich."

Paragraph 3:

"Real estate was transferred to the Real Estate Administration of the Government General for exploitation . . ."

Then the measures taken were as follows:

"1) On 13 August 1943 the SS training camp of Trawniki was handed over by SS Obergruppenführer Pohl.

"2) On 7 September 1943, in a conference with SS Obergruppenführer Pohl, the taking over of 10 SS work camps in the Lublin District as subsidiaries of Lublin Concentration Camp was decided on and, in addition, the handing over of further work camps in the Government General. The head of the Lublin Concentration Camp was provided with adequate contracts. The conference was the result of a visit by SS Obergruppenführer Krüger and SS Standartenführer Schellin."

Then Paragraph 3:

"In pursuance thereof, a letter from the Commander of the Lublin Concentration Camp, dated 14 September 1943, to the SS work camps announced that they had become subsidiaries of the Lublin Concentration Camp."—And then there follows the sentence—"The mixing of guards of foreign race with the German concentration camp guards from the Reich has also been started."

And I need not trouble you with the rest of that document.

If you will turn to Page 8 of the German text you will see the "Report on the administrative winding-up of Action Reinhard," just two pages, in the English text, from the one that I have just read. The first paragraph described the assets of this Action Reinhard.

Paragraph 3 of the text says:

"The assets which I collected were regularly delivered to the SS Economic and Administrative Main Office against receipts, and they in turn passed on the assets to the Reichsbank, the Reich Ministry of Finance, textile concerns, *et cetera.*"

And then the next paragraph but one—perhaps it is only fair that I should read the next paragraph:

"On the orders of the Reichsführer SS, articles needed for the supply of persons of the German race could be removed. The Reichsführer SS forbade any appropriation for the purposes of the SS."—But you will see later how this was qualified—"What is remarkable about the accounting is that no hard and fast basis for the amount collected existed, as the collection

of the assets was carried out under orders and only the decency and honesty, as well as the surveillance of the SS men who were used for this purpose, could guarantee a complete delivery."

Page 9 of the German text—I trust you are following this, Witness, because it is not without interest, you know. Page 9 of the German text sets out the assets, first sums of Reichsmark and zlotys.

"By far the greater portion was placed at the disposal of the SS economist in the Government General and the amounts were credited to the Action Reinhard in Reichsmark by the SS Economic and Administrative Main Office by an accounting transaction and handed over to the Reichsbank."

Next page, Paragraph 2:

"Foreign currency in bank notes or coined gold was collected, sorted, and also handed over to the Reichsbank via the SS Economic and Administrative Main Office."

Then Page 10 of your German text:

"Jewels, gems, watches, and such like were sorted according to their value and delivered to the SS Economic and Administrative Main Office. On orders from this office, watches of nonprecious metals were handed over to the troops, spectacles were repaired and placed at the disposal of wounded persons, and articles of no money value were handed over principally to Armed Forces authorities to cover urgent needs."

Paragraph 4:

"Textiles, garments, underclothing, bed feathers, and rags were collected and sorted according to quality. The sorted articles had to be searched for hidden valuables and finally disinfected. More than 1,900 wagons were then placed at the disposal of the authorities named by the Reich Ministry of Economics by order of the SS Economic and Administrative Main Office. Out of these stocks not only foreign workers were clothed but a large portion was used for remanufacture. The best garments were separated and, by order of the Reichsführer SS, were used for supplying persons of the German race. Shoes were also sorted according to the grade of usefulness and then either given to persons of the German race or to concentration camps for supplying inmates, or else taken to pieces and made into clogs for the prisoners."

Paragraph 5:

"Individual valuables of a special kind, such as stamps, coins, and the like, were sorted and delivered to the SS Economic and Administrative Main Office."

Paragraph 8 on Page 11 of your German text:

"Valuable furniture and household utensils were reconditioned and mainly put at the disposal of settlers of the German race. But furniture was also loaned to German and Armed Forces authorities against fictitious bills. Inferior goods were either destroyed or given to the population as a reward for good work at the harvest, *et cetera*."

The last paragraph:

"The total value of the articles received is, according to the attached list, approximately 180 million Reichsmark. However, minimum values have been set up, so that the total value is most likely twice as much, quite apart from the value of the articles obtained which are in short supply, such as textiles, of which alone more than 1,900 wagons have been made available to German industry."

And then there follows a detail of these assets, on Page 12 of the report:

"Assets delivered from Action Reinhard. The following assets from the Action Reinhard were delivered to the SS Economic and Administrative Main Office, Berlin, for further transmission to the Reichsbank or to the Reich Ministry of Economics: a) Reichsmark sums totalling 53,013,133.51 marks; b) currency in bank notes from all the principal countries in the world (half a million dollars being particularly worthy of note) to a total value of 1,452,904.65 Reichsmark; c) foreign currency in gold coins to a total value of 843,802.75 Reichsmark; d) precious metals . . . to a total value of 5,353,943 Reichsmark; e) other valuables such as jewelry, watches, spectacles, *et cetera* (the number of watches being particularly worthy of note, about 16,000 in working order and about 51,000 requiring repair, which have been placed at the disposal of the troops) value 26,089,800 Reichsmark; f) about 1,000 wagons of textiles to a total value of 13,294,400 Reichsmark. Grand total 100,047,983.91 Reichsmark.

"1,000 wagons of textiles and other assets, amounting to about 50 percent of the above-mentioned assets, which still have to be counted and valued, are warehoused here. It should be noted that the estimated values were based on the officially established rates of exchange or prices, which, however, would be much higher on the open market, for instance if the precious stones or precious metals were sold abroad, for the movement toward stable values is more pronounced there than with us. Besides, these sales abroad bring us foreign currency. If these prices were taken as a basis of evaluation here, this was done in order to be able to give a picture of the

assets delivered; in general this evaluation is not authoritative. The value of the acquisition lies principally in the fact that such large quantities of urgently needed raw materials could thereby be gained and that, on the basis of the assets obtained, foreign currency can be brought in with which new materials can in turn be bought by Reich authorities."

Then there follows a list of Jewish property received for delivery up to the 3d of February 1943. This is a sort of interim report: Cash in hand, 53 millions; foreign currency in notes, 14 million-odd.

Then on Page 15 of the report: Currency in gold coins of various countries of the world, 843,000-odd Reichsmark; 5 million-odd in precious metals.

Then I want you to look at Page 16 of this report, Witness: Other valuables: 5 gold revolving pencils; 578 gentlemen's wrist watches; 13,455 gentlemen's pocket watches and miscellaneous ladies' jewelry; then the item 22,324 spectacles; and then next but one to that, 11,675 rings; then all the precious little possessions of these people, necklaces, a pair of mother-of-pearl opera glasses, each one itemized down to the very last sordid Reichsmark.

Then on the next page, Page 17, there are other little items of private possessions, making a total of 26 million Reichsmark.

HERR PELCKMANN: Mr. President, I ask for permission to interrupt the reading of this document for a moment. I object to the use of these documents in the examination of this witness. The witness is to be examined as to his credibility by the Prosecution. The submission of these documents does not serve this purpose. In his testimony the witness has said that he had no authority over concentration camp administration. Nevertheless, a document is shown to him concerning penal regulations in a concentration camp. He said he did not know it. Continuing on the same lines, the Prosecution attempts to submit a document . . .

THE PRESIDENT: The Tribunal is perfectly well aware that this is a new document and they will take into account everything that this witness says.

HERR PELCKMANN: I beg your pardon, Mr. President.

THE PRESIDENT: I say, the Tribunal is perfectly well aware that this is a new document, and that the Tribunal will take into consideration everything that the witness says and how far it appears that he has had anything to do with the document in considering the question of his credibility. Your objection is therefore rejected.

We had better adjourn now.

[A recess was taken.]

MAJOR JONES: Reading a number of extracts, the total possessions of Jewish Poles was 26 millions. For textiles, there were 462 wagons of rags, 251 wagons of bed feathers, 317 wagons of clothing and underclothing, and then follows a total of over 100 million Reichsmark. Pages 18 and 19—you need not trouble with that.

Then you turn to Page 20 of the German text and, My Lord, Page 16a of the English text. You see a report on the exports of the slave labor from one of these camps which was set up for the benefit of the German armament industry. There are listed the various details of the work on various manufactured articles: 41 Aryan leading personnel ran 5,445 Jewish workers who worked 1,115,000 working days in the first 10 months of the year 1943, with 31 million zlotys in the bank and till.

Then on the next page, Page 21 of the German text, dealing with the orders given to the slave camps: 83 percent of the orders were for the Armed Forces and 17 percent for civilian concerns.

Next, turn to Page 23 of the German text, Page 19 of the English text. It is the provisional balance sheet of the Action Reinhard till, Lublin, dated 15 December 1943:

> "The following monies and values in kind were brought to the German Reich during the course of the Action Reinhard, Lublin, during the period 1 April 1942 to 15 December 1943 inclusive."

The Tribunal will see from these figures that in the meantime additional loot had been obtained: Cash in hand, 17,470,796.66 Reichsmark; Reichsmark notes and coins, 3,979,523.50 Reichsmark to the Reichsbank Berlin, zloty notes and coins, 5,000,461 Reichsmark; to the SS economist, Kraków, 50,416,181.37 Reichsmark; loans for SS industrial concerns, 8,218,878.35 Reichsmark.

Then on the next page there is a table of the foreign currency that was looted currency, and then notes, and then there comes, once more, a list of the private possessions of the Poles and Jews that were taken away: Rings, ladies' gold wrist watches, gentlemen's gold pocket watches, ladies' watches with brilliants, ladies' watches of platinum, 29,391 spectacles, shaving equipment, pocket knives, alarm clocks, sunglasses, silver cigarette cases, clinical thermometers, all detailed to the last mark with a total of 43,662,000 Reichsmark. Then the industry increased by 9 million more workers. There were 1,901 wagons of clothing, underclothing, bed feathers, and rags to an average value of 26 million Reichsmark. Total compilation of the total loot up to the end of December 1943: 178,745,000 Reichsmark.

Then there follows, on Page 28 of the German text, Page 23 of the English text, an account from the personal staff of the Reichsführer SS, and which is an account of the national resettlement

carried out by uprooting of farms to make room for German citizens and the clearing of some villages.

Paragraph 3:

"All Poles, including those who are sent to the Reich to work there, are to be given certificates confirming what property they have left behind. They are to be informed that they will receive a suitable compensation sometime in the form of goods or cash."

Page 29 of the German text, 24 of the English text, Paragraph 6:

"The communications from persons previously sent to the Reich, which report that they are getting on well there, and the people's realization of the fact that up to now nobody has been treated like the Jews, have already dispelled the feeling of dread which surrounded this system of classification."

Then I want you to turn to Page 31 of the German text, and the Tribunal will find it on Page 26 of the English text.

"Measures for further resettlement."—that carried the heading of the personal staff, Reichsführer SS—"As many quarters express themselves against the transfer of populations on the grounds that it causes too much unrest among the foreigners, thus disturbing production, the following measures have been decided upon:

"1. Verbal propaganda will spread news about the discontinuation of these transfers.

"2. No office will make any announcements before the date fixed for the resettlement. Planning will be done secretly.

"3. The time for immigration will be fixed to take place after the spring tilling of the fields, so that the foreigners will carry out the cultivation of the land, and the new settlers will be able to profit by the harvest. This has the advantage that, due to the aforesaid circumstances, the foreigners will till their fields everywhere, while the German settlers will not run the danger of being possibly hindered in their spring work, in view of the short time available.

"4. The transfer of Poles should be carried out in such a manner that the good elements are put, as far as possible voluntarily, in districts cleared by the Security Police, and the transfer should be run under the heading, 'The Establishment of Security in Partisan Districts.' The bad elements, if they are not employed as auxiliary workers, will be taken away gradually.

"5. The announcement of the time of resettlement will be made only on the day of the transfer of the population.

"6. All the organizations formed by the settlers in all the villages will be occupied in advance by the 'Landwacht' (Country Guard) who, having received previous training, are to save the use of our own SS forces."

Then on the next page there follows a memorandum by Globocznik, setting out the details of the technique of resettlement. And I turn to the next document, Page 34 of the German text, 29 of the English text. That is Globocznik's final letter forwarding this report in dealing with the Reinhard Action. It is dated the 4th of November 1943, when, as the Tribunal sees, Globocznik was the Higher SS and Police chief in the operational zone of the Adriatic coastal area. It is addressed to Himmler:

"Reichsführer: I concluded Action Reinhard, which I have been directing in the Government General, on 19 October 1943, and have dissolved all camps."

The last paragraph but three:

"During a visit you, Reichsführer, held out to me the prospect that a few Iron Crosses might be awarded for the special performances of this hard task after the work had been concluded. Please let me know, Reichsführer, whether I may submit suggestions in this connection.

"I beg to point out that such an award was also granted to the forces of the SS and Police Leader in Warsaw for the Warsaw action which formed a comparatively small part of the total work."

In the final document, Himmler sends a letter to Globocznik, saying:

"I express to you my thanks and my acknowledgment for the great and unique services which you have performed for the entire German people by carrying out the Action Reinhard."

Witness, do you still say that you had no knowledge of the use of the SS for the collection of loot, for the use of resettlement, for the driving of people from their homes and for the enslavement of Poles and Jews?

VON EBERSTEIN: No, I had no knowledge of these things.

MAJOR JONES: When did you first discover that Jewish and other people were being exterminated in concentration camps?

VON EBERSTEIN: I already testified to that a little while ago, that I learned of this extermination only after I was arrested.

MAJOR JONES: Your connection with the Rascher case in the spring of 1944 must have given you a very clear idea that extermination was going on. I repeat my question: Did not your contact

with the Rascher case in the spring of 1944 warn you clearly that extermination and killings were going on in concentration camps?

VON EBERSTEIN: I can refer to my personal experience and observation only, which in the case of Rascher proved to me for the first time that such things had occurred. I should like to repeat again that in the Reich territory we at home had no possibility of learning such things as are revealed by the documents before me.

MAJOR JONES: You arrested Rascher on the charge of fraud, did you not?

VON EBERSTEIN: Rascher, as I already testified on Saturday, was suspected first of all . . .

MAJOR JONES: Just a moment. Are you going to answer my question directly? Did you arrest Rascher on a charge of fraud?

VON EBERSTEIN: I can only repeat that he was already under arrest, and after we learned of this crime, we kept him in custody until the end. It was a coincidence that we were holding him for the other crime—the two crimes for which he had been charged. Then, of course, he was closely guarded.

MAJOR JONES: You knew that Rascher had been carrying out experiments on humans and in the course of those experiments, that he had been killing them, did you not?

VON EBERSTEIN: That I learned from my conversation with the camp commander and the physician.

MAJOR JONES: Was Rascher ever charged with murder?

VON EBERSTEIN: I already testified to that on Saturday—unfortunately he was not accused by Himmler. Himmler was the only one who could accuse him, as he was the competent judge at the court.

MAJOR JONES: Although you knew in the spring of 1944 that Himmler's organization was not only criminal but murderous, you continued to serve it for another year?

VON EBERSTEIN: I have already stated the cogent reasons why it was not possible for me to go against the order of my superiors.

MAJOR JONES: When you gave the evidence before the Commission on this Rascher matter, do you remember saying—it is recorded in the transcript for the 6th of July 1946—that when you discovered that Rascher was the responsible person for the experiments on living human beings, you saw to it that this crime was not carried out any more? Did you say that?

VON EBERSTEIN: Yes, indeed. Inasmuch as this man was not released from arrest as he otherwise probably would have been—

the other case had been cleared in the meantime—there was no longer any danger of his evading justice. So the man should have been released. However, we continued to hold him because we had received knowledge of this new crime.

MAJOR JONES: Did you take any steps to see to it that Rascher was not succeeded by another SS murderer?

VON EBERSTEIN: I do not understand what you mean by that question.

MAJOR JONES: I will explain myself. The Rascher experiments on human beings were continued in Dachau after Rascher was put into disgrace for fraud, were they not?

VON EBERSTEIN: No; the physician with whom I talked and who was the deputy—he was brought before me by the camp commander—did not carry out any further experiments of that nature. He was the very man who had reported on the things that Rascher had done, and he told me that he refused to go on working.

MAJOR JONES: Are you telling the Tribunal that the experiments and biological research on human beings in Dachau stopped after the dismissal of Rascher?

VON EBERSTEIN: Yes, indeed. I am firmly convinced of that fact.

MAJOR JONES: I want you to look at the Journal of the Ahnenerbe, the ancestral research organization, for 1944, which was kept by Sievers, the Reich manager of that organization. It is Document 3546-PS, which will be Exhibit GB-551. I have made certain extracts from the relevant passages for the convenience of the Tribunal. Now, if you confine your attention to the extracts, you can check them against the original if you wish to do so. You will see that Rascher's name appears in January, the conferences with him on the 28th of January, on the 29th of January, and then over in the next page in March and then in April there is a conference at Rascher's station.

Now, when exactly was it that you had Rascher arrested, what month was it?

VON EBERSTEIN: What month?

MAJOR JONES: What month was it that you had Rascher arrested?

VON EBERSTEIN: I cannot tell you. But surely you will find it in the files. On Saturday I already testified that it was in the spring of 1944. I cannot give you the exact date; however, I do know for certain that at the beginning of May, after the preliminary proceedings of this case were concluded, I went to see Himmler and took the documents, so that these things must have ceased as Rascher was under arrest.

MAJOR JONES: In looking at the extract for May, you will see the conferences of the Reichsarzt SS, in which Hauptsturmführer Dr. Plötner took part. Did you not know that Dr. Plötner took over from Rascher in Dachau?

VON EBERSTEIN: I do not know the names of the various physicians.

MAJOR JONES: In the entry for the 27th of June, the extract of 31st of May—first, you see that Sievers had a conference with SS Hauptsturmführer Dr. Plötner first of all, with regard to Professor Schilling. I take it that you know who Professor Schilling is, do you not? Do you know Professor Schilling?

VON EBERSTEIN: Yes, indeed.

MAJOR JONES: He has recently been condemned to death for his experiments in Dachau, has he not?

VON EBERSTEIN: I read that in the papers.

MAJOR JONES: In May, you see, he was having a conference with Dr. Plötner; the 27th of June there is a conference with regard to the creation of the scientific research station in the concentration camp. The 25th of July—conference with SS Standartenführer Maurer in Oranienburg about the use of inmates for scientific purposes; and then on the same page, the 26th of July, Hauptsturmführer Dr. Fischer goes on a quick journey through all concentration camps in order to fix finally the persons; and then the 21st of October, the proceeding of research of SS Sturmbannführer, Professor Dr. Hirt; and then the final entry for the 23d of October 1944, SS Standartenführer Dr. Poppendiek, taking over of biological research by SS Hauptsturmführer Dr. Plötner in Dachau. Are you still saying to the Tribunal that all experiments on human beings in Dachau stopped after Rascher went from there?

VON EBERSTEIN: I can only state that the name Rascher does not appear here and that I said under oath that he remained under arrest. I do not know what else went on there. Anyhow, when I learned of the happenings, I did everything to have the matter brought to court. What other experiments were made in the camp, as indicated in this report, I cannot know.

MAJOR JONES: Witness, you told the Tribunal that these experiments did not go on any more after the dismissal of Rascher. You told that to the Commission, did you not, and it is not true?

VON EBERSTEIN: I can only repeat that Rascher was under arrest and thus I assumed that these experiments had ceased.

MAJOR JONES: If your Lordship please, I am not attempting to cross-examine this witness with the matters discussed before the

Commission. The Tribunal is in possession of all the documents with regard to the general matters I dealt with in the cross-examination.

THE PRESIDENT: Doctor Pelckmann, do you want to re-examine?

HERR PELCKMANN: Witness, the Prosecution have submitted to you the regulations for punishment that applied to Dachau Concentration Camp. I should like to ask you once more as a matter of principle, did you have anything to do with the administration of Dachau Concentration Camp or with the bringing in and the release of inmates at this concentration camp?

VON EBERSTEIN: I can only repeat that neither I nor other Higher SS and Police Leaders had anything to do with sending people to or releasing them from concentration camps. At all times, up to the very end, that was the competence of Amt IV of the RSHA, of the Gestapo.

HERR PELCKMANN: Did you notice, Witness, that on the copy of this Document D-922 these regulations bear no date, nor is there any indication that these regulations were effective at all.

VON EBERSTEIN: The photostatic copy?

HERR PELCKMANN: Yes, the first one you received, D-922.

VON EBERSTEIN: Yes, I should like to remark that it has neither heading, nor signature, nor date.

HERR PELCKMANN: On my copy I can only see that a letter dated 29 May 1933, written by a Herr Wintersberger, was attached. I ask you, Witness, were you in Munich on 29 May 1933?

VON EBERSTEIN: I was at Weimar in Thuringia at that time.

HERR PELCKMANN: The Prosecution called you a confidential agent of the SS, and a personal deputy of Himmler. Will you reply to that? Were you the personal representative of Himmler?

VON EBERSTEIN: I think the statement I made on Saturday must have been misunderstood. I should like to repeat once more. According to the decree of the Reich Minister of the Interior in the year 1938, we, the Higher SS and Police Leaders, were the representatives of the Reichsführer SS and Chief of the German Police. However, as far as their authority and the power with regard to orders were concerned, according to the text of this decree, the actual superiors of the Police were the heads of the main offices of the Order Police and the Security Police in the Reich Ministry of the Interior. The Higher SS and Police Leaders, according to the wording of the decree, had only the right, not the duty, to carry out inspections, and they were merely permitted to make suggestions.

HERR PELCKMANN: Were inspections of concentration camps allowed as well?

VON EBERSTEIN: No. The concentration camps were subordinate to Amtsgruppe D of the Economic and Administrative Main Office only. They had their own services and their own transport. It was only possible to enter the camp with the permission of that office.

HERR PELCKMANN: Regarding Document 4045-PS, the affidavit of Pohl, did you ever discuss with Pohl problems concerning the concentration camps?

VON EBERSTEIN: No, never. Only once did I go to see Pohl in his office at Berlin-Lichterfelde. The conversation dealt purely with the acquisition of a site in Munich for an SS office—an office for the General SS, which was under me. We discussed the buying of this property. I believe this was in 1940. I did not speak to him about concentration camps or any other topic. Besides, I was not on friendly terms with him and had nothing in common with him.

HERR PELCKMANN: You saw the reports of Herr Globocznik, Document 4024-PS, and you said that the reports were completely unknown to you. But did you give out similar decrees or decrees which even remotely resembled them? Did you give directions like that to offices subordinate to you or did you receive such directions from offices over you?

VON EBERSTEIN: I never received orders from superior offices charging me with actions of that kind. At no time in my official capacity was I given an order like that. I am not acquainted with these peculiar affairs, and I should like to repeat that my comrades and I were horrified when we heard about these things in the camps where we are now being held.

HERR PELCKMANN: You just mentioned your official capacity. Did you mean in your capacity as a leader of the General SS as well as Police President and Higher SS and Police Leader?

VON EBERSTEIN: Yes. I am including all the offices which I have ever held.

HERR PELCKMANN: When you look at the documents of Herr Globocznik, can you, from your general knowledge, tell us whether Globocznik was a leader of the General SS and whether he has done these things in that capacity?

VON EBERSTEIN: Globocznik was an SS leader from Austria, as far as I can remember. As I have already said, I saw and talked to him only once in my life. As can be seen from this document, he was—the document bears the heading, Higher SS and Police Leader "Küstenland," which would appear to be the Adriatic coast—

Higher SS and Police Leader in occupied territory. I have already stated that the activity of the Higher SS and Police Leaders in the occupied territories differed entirely from the activity of the Higher SS and Police Leaders in the Reich. As far as I am informed, the Higher SS and Police Leaders in the occupied territories received their orders from Himmler according to local conditions. This order or the report on the carrying out of an order, as it is shown in this document, is misleading and not in line with the tasks which were set us. All these things had to do with economic measures with which we in Germany had nothing whatever to do.

HERR PELCKMANN: Did you, as Higher SS and Police Leader, have anything at all to do in Germany with economic measures?

VON EBERSTEIN: No, nothing at all.

HERR PELCKMANN: The Prosecution asked you if the experiments were continued at Dachau. Here before the Tribunal and before the Commission, you stated according to your conviction "no." The reason you gave for this was that Rascher was under arrest. Look again at the document submitted under 3546-PS and tell me after what date the name Rascher no longer appears in the conferences with Sievers.

THE PRESIDENT: Can we not see that document for ourselves? You are referring to a document and we can read the document as well as he can.

HERR PELCKMANN: Yes. I am just calling the witness' attention to the debatable point in the document, but I will turn to the next question, Your Honor.

[Turning to the witness.] What was your reason for assuming that the experiments were not being continued at Dachau? You said Rascher was under arrest?

VON EBERSTEIN: Before seeing this copy here for the first time, I did not know that besides Rascher this Professor Schilling was active as well. I only learned about that from the proceedings in Dachau while under arrest. Up to that time I knew only about the research station of Rascher and that there was another man after Rascher, but I do not know his name. It is possible that it was the man mentioned in the document, namely Dr. Plötner. That is quite possible. I do not know the name of this man. He was quite horrified when he reported on the activities of his superior, Rascher.

THE PRESIDENT: This is a waste of our time, an absolute waste of time. The witness said there were no further experiments and when the document is put to him, he says he assumes. What is the use of examining him about this?

HERR PELCKMANN: Witness, was the further reason for your assumption that the experiments were not being continued the

result of your first protest to Himmler? Please remember Himmler's reaction to your report and tell the Tribunal if Himmler's reaction led you to assume that now since he had been detected he would be very careful about continuing these experiments?

VON EBERSTEIN: When I reported to Himmler he was very angry and he told me that these matters did not concern me at all and that besides Rascher had rendered great services to research of which I did not understand anything. I contradicted him and said it was quite impossible, whereupon Himmler said he would submit the documents and turn the case over to the Highest SS and Police Court. Of course, at that time I could not assume that Himmler knew about the details.

HERR PELCKMANN: Witness, to summarize your statements and the statement you have just made, I should like to ask you in conclusion whether you are today convinced that the mass of the members of the General SS feel that they have been deceived by their highest leaders, who have outrageously abused their conception of loyalty?

VON EBERSTEIN: Yes. After discussing this with my comrades—and I talked with many comrades during my arrest—I must say that the mass of these men were bitterly disappointed when they learned of these things. They cannot comprehend how Himmler could have brought them into contact with such dirty business. I am speaking not only of myself, but of all the men of the SS and these men kept faith to the very last for the sake of the Fatherland. But the leaders did not keep faith with us. We followed the leaders in good faith and were inspired by pure idealism.

THE PRESIDENT: What did you mean by the statement that the Allgemeine SS had ceased to exist in the last part of the war?

VON EBERSTEIN: Your Honor, I only wanted to make it clear that no Allgemeine SS were left in the country; it was practically dissolved. For instance, there were 10,000 SS men in my district in peacetime and at the end of 1944, when the Volkssturm was called up—that was the first time we made a check on how many men were still there—there were only 1,200 men left, and even these were no longer free for duty since they were all employed on work connected with the war. They were working on the railways, in the postal service, on the land, so that to all intents and purposes the Allgemeine SS had been dissolved. Even the command posts of the Sturmbann and the Standarte had been dissolved. The following is proof that nothing remained. When a guard of honor was required for a memorial service, it was not even possible to muster a guard of honor as all the men were with the colors. For all practical purposes, it was dissolved. For our social work we had to call in

women, old people, and others who were not members of the SS at all but only sympathizers.

HERR PELCKMANN: Are you saying there were no SS men employed in any of the concentration camps in Germany?

VON EBERSTEIN: No, I do not assert that. There had been members of the SS with the command staffs from the beginning, but they no longer received orders from the General SS. Their names had been struck off our lists, because they were no longer on our rolls. They had worked in the concentration camps, I should say, since 1934 and led their own lives there. It can certainly be ascertained how many of these men there were in all. In proportion to the entire membership of the SS it was only a very small number. I do not know the exact number, but I do not think I am going too far when I say that at Dachau there were perhaps 50 or 60 men on the staff of the commander.

HERR PELCKMANN: Are you saying there were 50 or 60 men at Dachau who had ceased to be members of the SS?

VON EBERSTEIN: No, I do not really mean that. They still wore our uniform and were attached to the commanders of the concentration camp, but they actually had nothing in common with us for we hardly had any more contact with them. We met them only occasionally.

HERR PELCKMANN: Had you no responsibility for them?

VON EBERSTEIN: No, I was not responsible.

THE PRESIDENT: Well, another question. Had the Waffen-SS any contact with or any relation to the Allgemeine SS except through the Reichsführer SS Himmler?

VON EBERSTEIN: Only at the outset when the Verfügungstruppe (emergency troops) were formed. That was the organization from which the Waffen-SS originated. Men who wanted to become soldiers enlisted in the General SS. This is a topic on which a general of the Waffen-SS will testify as he is more informed on this point than I am.

We were merely on friendly terms; we visited each other. To issue orders . . .

THE PRESIDENT: After that first stage you agree that the Waffen-SS, except through Himmler, had no connection with the General SS?

VON EBERSTEIN: No, Your Lordship, they had no connection. They wore the same uniform and politically they held the same views. But, as I have said already, I am not in a position to testify as I never served in the Waffen-SS myself, but only received the rank of a Waffen-SS general when the Prisoners of War Organization was turned over to us.

THE PRESIDENT: Do you know whether any of the Waffen-SS were used in concentration camps?

VON EBERSTEIN: There were special guard troops. In peacetime they were the Death's-Head Units and they wore their own insignia. Instead of the two lightning flashes which the Waffen-SS had on their collars they had a death's head. They were, so to speak, another troop unit, and since they were made up of young people they were replaced during the war by older men . . .

THE PRESIDENT: Are you answering my question which was: Were any members of the Waffen-SS used in concentration camps? You are telling me about the Totenkopf.

VON EBERSTEIN: It may have been that during the war wounded men, perhaps those members of the SS who were no longer fit for service at the front, were transferred to the guard units—those who came out of the hospital, I assume. If you consider this as having a connection, then I suppose it is so.

THE PRESIDENT: Turning to another matter—this Gauleiter and Reich Commissioner for the Munich and south Bavarian district, how long had he been in office?

VON EBERSTEIN: The Reich Defense Commissioner Giesler—I assume that is the man you mean, Your Honor—was in office from the summer of 1942 until the end.

THE PRESIDENT: And you were in close contact with him, I suppose?

VON EBERSTEIN: Yes, I had to take orders from him regarding matters of home defense.

My official relationship, if I may put it that way, as I have already testified, consisted in my being Police President and thus a Bavarian administration official, and as Giesler was the Reich Defense Commissioner and also Bavarian Minister of the Interior he was as such my superior.

THE PRESIDENT: Was there any other superior police officer over you?

VON EBERSTEIN: I did not understand the last part of the question. There seems to have been a technical disturbance.

THE PRESIDENT: Was there any police officer in Munich over you?

VON EBERSTEIN: No.

THE PRESIDENT: What police had you under you?

VON EBERSTEIN: As Police President up to 1942—I was no longer Chief of Police after 1942. I was replaced then by someone else—up to 1942 I was in charge of the Protection Police. In every

large city of Germany there was a commander of the Protection Police who assisted the Chief of Police in the regulation of traffic and other tasks connected with public life. In addition to that there was at Police headquarters a Criminal Police office. The chiefs of police had nothing to do with the Political Police, the Gestapo, or the Security Service. These were offices which worked independently.

THE PRESIDENT: Was the Gestapo under you?

VON EBERSTEIN: No.

THE PRESIDENT: The SD?

VON EBERSTEIN: No.

THE PRESIDENT: Well, then what police were under you?

VON EBERSTEIN: As Chief of Police I was responsible for the city of Munich and of all other . . .

THE PRESIDENT: Will you tell me what police there were under you?

VON EBERSTEIN: Which police were subordinate to me? I have already stated as Chief of Police I had command of the Protection Police and the Order Police, with about 1,700 officials, and I could use them just as they were needed in the city. In addition, I had the supervision of the Criminal Police—I could give directions to them in my capacity as Chief of Police but not in my capacity as Higher SS and Police Leader. My other colleagues who were not chiefs of police, and, therefore, not higher officials, could only carry out inspections and make suggestions.

It is very hard to explain these matters, but these are the facts.

THE PRESIDENT: That is all. The witness can retire.

HERR PELCKMANN: Is it agreeable to you, Mr. President, if I do not call the next witness until 2 o'clock?

THE PRESIDENT: No. Call the witness.

HERR PELCKMANN: I should like to call the witness Brill.

[The witness Brill took the stand.]

THE PRESIDENT: Will you state your full name, please?

ROBERT BRILL (Witness): Robert Brill.

THE PRESIDENT: Will you repeat this oath after me: I swear by God—the Almighty and Omniscient—that I will speak the pure truth—and will withhold and add nothing.

[The witness repeated the oath.]

THE PRESIDENT: You may sit down.

HERR PELCKMANN: Witness, what activity did you carry out which put you in a position to testify here about the affairs of the SS?

BRILL: For 12 years I was with the Waffen-SS. In 1933 I entered the service as a private in the Leibstandarte. I was made an officer and then for 4 years, with interruptions due to my service at the front, I was in the Ergänzungs Amt (training center) of the Waffen-SS. At the end of the war I was orderly officer in an SS Panzer division.

HERR PELCKMANN: What does that mean, "Ergänzungs Amt" of the Waffen-SS?

BRILL: The Ergänzungs Amt of the Waffen-SS concerned itself with the enrollment and examination of recruits for the Waffen-SS as well as with the military supervision of the members of the Waffen-SS. I was the head of a main department in the Ergänzungs Amt and as such I had under me the drafting and military supervision. However, I had sufficient insight into other departments of the Waffen-SS so that I can testify here before this Court.

HERR PELCKMANN: Is it correct to say that you could watch the development as far as figures are concerned in the Waffen-SS?

BRILL: Yes.

HERR PELCKMANN: Would you give the Tribunal details as exactly as possible, paying special attention to the question of whether the enlistments in the Waffen-SS were voluntary or compulsory?

BRILL: The Waffen-SS originated from the SS Verfügungstruppe (emergency troops). The skeleton of the SS Verfügungstruppe was formed by several hundred men of the Leibstandarte. This had been set up in 1933 as a guard and representative body for the Reich Chancellery. Owing to the expansion of these representative tasks and guard duties, the Verfügungstruppe in the years 1934 to 1939 was increased by volunteers from all classes of the German population. At the beginning of the war the Verfügungstruppe had about 18,000 men. The service in the Verfügungstruppe was a military service. In addition to that, there was on 1 September 1939 the Death's-Head Unit which had about 8,000 men. To these two units were added about another 36,000 men between the fall of 1939 and the spring of 1940. These men had been drafted as an additional force for the Police by virtue of emergency service measures. These 36,000 men together with the Verfügungstruppe and the Death's-Head Unit made up the Waffen-SS.

A directive of the High Command of the Armed Forces in the spring of 1940, which was published later in December 1940 as an Army service regulation, dealt with the military supervision, composition, and recruiting of the Waffen-SS. At the beginning of 1940 we had 100,000 men in the Waffen-SS. There were 36,000 who had been drafted and 64,000 volunteers.

THE PRESIDENT: We will recess now.

[The Tribunal recessed until 1400 hours.]

Afternoon Session

[The witness Brill resumed the stand.]

HERR PELCKMANN: Witness, you had just said that at the beginning of 1940 the Waffen-SS had 100,000 men of which 64,000 were volunteers and 36,000 draftees. Will you continue about the development?

BRILL: In the same year, 1940, we had 50,000 more recruits for the Waffen-SS; 2,000 to 3,000 were drafted and the others were volunteers. In 1941 we received 70,000 men; 3,000 drafted, the rest volunteers. In 1942, 30,000 men were drafted.

THE PRESIDENT: Wouldn't it be quicker and just as accurate to take all these figures as they have been given before the Commission? Presumably they are all in writing in the evidence given before the Commission. It is not necessary to repeat a series of figures of this sort for us. You could pass on to something which would be less statistical.

HERR PELCKMANN: Very well.

[Turning to the witness.] From the comparative figures of the draftees and the volunteers, one could say on the basis of your testimony that 40 to 50 percent of those called to the Waffen-SS were drafted forcibly. In your opinion, was this percentage the same at the end of the war?

BRILL: No, by no means. At the end of the war we had about 550,000 men in the Waffen-SS. Up to October 1944 there were 320,000 known casualties including dead, missing, and seriously wounded. Considering that the majority of the dead were our volunteers—I know this from carefully compiled reports on casualties—it results from this that at the end of the war there were more draftees than volunteers in the Waffen-SS.

HERR PELCKMANN: The Court will be interested in knowing where you have received such accurate knowledge.

BRILL: For 4 years I worked on this material. I prepared statistics and made reports so that I have retained these figures in mind very accurately. In my office in Berlin I handled card indexes, *et cetera.* They were there when I left in January 1945.

HERR PELCKMANN: Particularly for the years 1943 and 1944 you have made it clear how many men were drafted into the Waffen-SS. Statistics for the earlier years, 1940, 1941, and 1942, have not been compiled by the Commission. Perhaps you could give us examples of how nonvolunteers were taken into the Waffen-SS at such an early period.

BRILL: Yes. I have already mentioned the 36,000 men who were drafted by emergency decrees. In addition, in 1940 we drafted men from the Police to set up our field Gendarmerie. We drafted men from the Reichspost to secure our Army mail. We drafted the civilian employees of the SS Verfügungstruppe. In 1941 we frequently drafted personnel from the Army for our cavalry units. I recall further that about 800 Army men were drafted into the Waffen-SS in the summer of 1941. Doctors and technicians also were drafted in 1940 and 1941; in addition, resettled persons who had become subject to military duty. Even for the resettlement details we drafted men who did not report voluntarily. In 1942 we deviated considerably from the volunteer basis. About 15,000 racial Germans were drafted into our Prinz Eugen Division, about 10,000 men were drafted from the Police and the Army for the Police division, and 2,000 men of the Reichspost who were with the Army as so-called front auxiliaries were drafted into the Waffen-SS. They were civilian post office employees with the Army.

HERR PELCKMANN: Can you recall the transfer, on Hitler's order, of whole formations of the Air Force?

BRILL: Yes, that was particularly in 1944. Also in 1943 units of the Air Force were taken over. I recall, for example, an agreement of Reich Marshal Göring with our commander, Sepp Dietrich, of March 1943, when 3,000 men of the Air Force were transferred. In 1944 many men were transferred from the Army as well.

HERR PELCKMANN: And now, to go back to the volunteers, can you tell us anything about the motives for volunteering?

BRILL: Yes. In my office I read thousands upon thousands of applications for admission. I can say that up to 1939 the enthusiasm for the SS, for its decent and proper conduct, was the main reason for volunteering. Besides these, many volunteered for professional reasons.

HERR PELCKMANN: Did that change after the beginning of the war?

BRILL: After the beginning of the war, the main reason for volunteering was that the men wanted to do their military service in a clean, modern, elite formation. Professional reasons also played a part in volunteering. After the beginning of the war very few came to the Waffen-SS for political reasons. I also know that part of the volunteers were recruited by overenthusiastic recruiters from the Hitler Youth or the Reich Labor Service. Formally they volunteered but actually they enlisted under a certain moral pressure. I know this from the letters of complaints which reached the Ergänzungsamt.

HERR PELCKMANN: Letters from whom?

BRILL: Letters from the parents of these men.

HERR PELCKMANN: How old were these boys?

BRILL: They were mostly 17. They had volunteered and their parents did not want them to, or, prompted by the speech of a recruiter of the Hitler Youth they had reported and their parents did not agree.

HERR PELCKMANN: Could a volunteer have recalled his application? Could he have left the Waffen-SS? Could he have left, say, because he learned of some crimes such as are alleged by the Prosecution?

BRILL: No, that would not have been possible. If the man once volunteered, there was no way out since he was drafted by an order from the Armed Forces which said that he had to answer the call if he wanted to avoid punishment. Once he had reported to the troops he was under military law and could not leave the Waffen-SS.

HERR PELCKMANN: Did you receive complaints in this connection? Were there complaints that these volunteers were used for any sort of crimes?

BRILL: Yes, we did receive complaints, but they were primarily complaints from draftees who thought that the Waffen-SS was given especially arduous duties and had exceptionally heavy casualties. For this reason, they wanted to go back again. It also happened that parents were afraid for their boys and also sent letters to us complaining that the boys were drafted at 17 by virtue of a Führer order without the approval of their parents and asking that they should come back. We paid no attention to these complaints.

HERR PELCKMANN: As a member of the Ergänzungsamt, no doubt you know something about the process of selection for the Waffen-SS; for example, whether purely political reasons were decisive for the acceptance of a volunteer or of a draftee.

BRILL: I took part in inspections in the Leibstandarte and later directed them myself. I can say that we were interested only in healthy young men. We did not ask in inspections whether a man's father had Communist leanings or whether he and his parents were deeply religious. We were interested only in young spirited men of firm character. We accepted a young man who had not been in the SA or the General SS much more readily into the Waffen-SS than an older Party member who had a physical disability. We wanted young, upright, clean soldiers. Of course, later, in the case of those who were drafted and transferred, the selection was less rigid.

HERR PELCKMANN: For these inspections did you have any secret instructions concerning the selection?

BRILL: No. Our inductions always took place in public places. I remember that even before the war we held public inductions for the Waffen-SS in Danzig, which was still under Polish sovereignty. The manner of making our selections was not kept secret either. Anyone could see it in the recruiting pamphlets, which were published by the millions.

HERR PELCKMANN: Besides Reich German soldiers did members from foreign countries serve in the Waffen-SS?

BRILL: Yes. Our honest racial Germans should be especially mentioned. They formed the majority of these alien soldiers. The Reich had reached agreements and state treaties with the countries that these people were to do their military service in the Waffen-SS. From the Germanic countries we took almost exclusively volunteers for our Viking Division and for the other Germanic units.

In 1943 and still more in 1944 we also set up alien units. Most of these people were volunteers, but many of them were drafted on the basis of the laws of their own countries. With these people, people of completely different racial, religious, and psychological backgrounds came into the ranks of the Waffen-SS, the more so as they were allowed to retain their own characteristics.

HERR PELCKMANN: Please give a brief survey of how great the number of such foreigners was, since it is important for the accusation that supposedly a unified ideological unit had been set up here.

BRILL: I can give this set-up from the end of 1933 to the end of 1934.

HERR PELCKMANN: You mean 1944, do you not?

BRILL: Certainly, 1944. I beg your pardon. Up to the end of 1944 we had drafted 410,000 Reich Germans, 300,000 racial Germans, 150,000 foreigners, and about 50,000 German soldiers into the Waffen-SS.

HERR PELCKMANN: I touch upon a question of the President to the previous witness, Von Eberstein. You surely know the relationship of the General SS to the inductions into the Waffen-SS. For example, did a Führer of the General SS who was transferred into the Waffen-SS retain his rank?

BRILL: One cannot speak of a transfer in a military sense. The General SS was a voluntary organization. The Waffen-SS was a military body. It was certainly the case that up to 1942 a member of the General SS who wanted to join the Waffen-SS, first of all had to volunteer. Only after 1942 could we take the men without their volunteering; that is to say, the difficulty of getting replacements led us to do so. I would emphasize that it was quite possible

for a man of the General SS to have volunteered prior to 1942 and to have been rejected because of physical disability. After 1942, of course, we no longer rejected members of the General SS. There was, of course, a possibility for a member of the General SS to do his military service in other branches of the Armed Forces and I estimate that the majority of the General SS was drafted into the Armed Forces at the beginning of the war. A Führer of the General SS, unless he already had military rank in the Armed Forces, was taken into the Waffen-SS as a common soldier. On the other hand, officers of the Armed Forces were taken into the Waffen-SS with equivalent rank.

HERR PELCKMANN: Then would you conclude, Witness, that activity in the General SS was in no way evaluated as premilitary training, since a member of the General SS had to do military service in the Waffen-SS or the Armed Forces from the beginning just as a nonmember did?

BRILL: Yes, of course. That is how it was.

HERR PELCKMANN: Is it true that in Germany the Waffen-SS was considered as the fourth branch of the Armed Forces and not, as the Prosecution says, the picked troop of the Nazis?

BRILL: Yes. I believe I can affirm this, at least for my field of duty. Only the selection was carried out according to SS directives, while acceptance for the Waffen-SS depended on the approval of the Wehrbezirkskommando. For the induction into the Waffen-SS the induction order of the Armed Forces was used. The volunteer contingents of the Waffen-SS were prescribed by the High Command of the Armed Forces, and forcible inductions always followed on the basis of the orders of the High Command of the Armed Forces. We can also say that we had no connection whatever with the Party, for the Party gave us no orders.

The few Party members who were in the Waffen-SS paid no Party dues for the period of their service. They did not receive awards of the Party. The whole replacement and supervision of the Waffen-SS was effected according to regulations of the High Command of the Armed Forces, as specified in Army Service Regulation 8115. Since service in the Waffen-SS and in the Army were practically on the same footing we finally carried out in the fall of 1944 the long-sought merger of the SS replacement offices with the Army recruiting offices.

HERR PELCKMANN: Touching upon the question of the President to the witness Von Eberstein, I should like to ask you something about the composition of the guard personnel of the concentration camps. Is it true, as the Prosecution asserts, that the General SS during the war took over the guard duty at the concentration camps?

BRILL: In no way can that be said. The 8,000 men of the Death's-Head formation, of which I spoke previously, at the beginning of the war consisted only in part of members of the General SS. In October 1939, when the SS Death's-Head Division was set up, these men were transferred to this front unit. These men were replaced by emergency service draftees. They included, I should perhaps say, 3,000 men of the General SS. But these men were taken from the General SS by the Emergency Service Regulation, which could equally have been applied to the induction of other men, which was the case in part, for example with men of the Reichskriegerbund and of the Kyffhäuserbund. During the whole war the General SS did not replace the guards for concentration camps unless one or another SS man who was incapable of emergency service at the front was transferred there.

HERR PELCKMANN: Please tell us briefly what the purpose of the so-called Emergency Service Regulation was and to whom it could be applied.

BRILL: The Emergency Service Regulation was, in my opinion, and as far as I am informed, a regulation of the Reich according to which, in times of emergency, any member of the German Reich could be inducted for special services to the Reich. I have already mentioned this morning that 36,000 men were taken from the General SS on the basis of this regulation by the Reich Ministry of the Interior. The Reich Ministry of the Interior increased its contingent, as far as I know, to 1 million men for Police reinforcements and reserves, including these 36,000 men of the General SS.

HERR PELCKMANN: The Emergency Service Regulation and its effects are made clear by Document Number SS-26. Can you tell us who mainly took over the guarding of concentration camps during the war?

BRILL: During the war mostly racial Germans and members of the German Wehrmacht guarded the concentration camps. Let me explain this briefly. In 1940 and 1941 the guard personnel of the concentration camps were only replaced to a small extent. For the most part, there were members of the Kyffhäuserbund and the Reichskriegerbund, who in part were enrolled as inductees and in part as draftees by virtue of the emergency regulations.

In 1942 racial Germans and volunteers from the Reich who did not, however, volunteer as guards for concentration camps, but for the Waffen-SS, and who, because of unsuitability for service at the front, could not be put in the Waffen-SS, were made guards. In 1943 the replacements were done similarly. That year, too, another contingent of veterans was drawn in, and in 1944 the last young men among the concentration camp guards were to be sent to the front. In this year the great majority of the guards in the concentration

camps were members of the Armed Forces. I know that the OKH reached an agreement with the Inspectorate of the Concentration Camps that the Army would take over the guarding. I myself saw the order which mentioned 10,000 men.

HERR PELCKMANN: Can you give us figures on the concentration camp guards?

BRILL: Yes, since the SS Main Office was also entrusted with the supervision of the guards at the concentration camps.

HERR PELCKMANN: What does "Wehrüberwachung" mean?

BRILL: That means that every man was included in a card index so that in case of reclamation by his employer the office concerned would know exactly where the man was and when he would be available again.

As I was saying, the record of these men was kept at the SS Main Office. Therefore, I know that about 7,000 such men were racial Germans, that about 7,000 were from the Army, and some were from the Air Force, and that there were 10,000 men who had volunteered for the Waffen-SS, but as a result of unsuitability for front service they were simply detailed to the guard personnel of concentration camps. This included the Kyffhäuser members whom I have already mentioned, also SA members, non-Party people, and so forth. There might have been about 6,000 men at the end of 1944 composed of Emergency Service draftees (Notdienstverordneten), old veterans' organizations (Frontkämpferverbänden), and a few invalid members of the Waffen-SS.

HERR PELCKMANN: What do you mean, invalids?

BRILL: That means people who had been wounded at the front and were no longer fit for front service but were still able to perform guard duty.

HERR PELCKMANN: Now can you tell us whether the majority of these concentration camp guards no matter where they came from, were volunteers or whether they were drafted?

BRILL: No one ever volunteered for guard duty at concentration camps. The racial Germans as well as the Reich Germans who were used as guards were assigned there. The members of the Armed Forces also, as far as I know, did not volunteer for this service but were sent there by order.

HERR PELCKMANN: Witness, what do you know about the administration of concentration camps?

BRILL: The highest administrative authority for concentration camps was the Inspectorate KL. This Inspectorate KL was in 1939 or at the beginning of 1940 in the hands of the Inspector General

of the Death's-Head units. In 1942 the Inspectorate KL was transferred as Amtsgruppe D in the Economics and Administrative Main Office.

I had no insight into the internal affairs of this Amtsgruppe such as I had with many other SS agencies owing to my position. In the first place, this Amtsgruppe D, that is the Inspectorate KL, was not in the same building with our Berlin office, and besides this we had no personal contact with the exception of the assignment of a few men, which was effected mainly by telephone.

HERR PELCKMANN: Can you, on the basis of your long service in the Waffen-SS and your position, give any information as to whether members of the Waffen-SS generally had the opportunity to learn anything about the crimes which are now charged against the SS as a whole, or whether you yourself could learn anything of them?

BRILL: Hundreds of thousands of people, mostly young men, were inducted into the Waffen-SS. These people were 13, 14—perhaps 16 years old at the beginning of the war. When they came into the Waffen-SS, they were only used at the front. And when they went home for a few days on leave, they did not worry about politics or enemy propaganda, but thought only of seeing their families. The tens of thousands of wounded men in hospitals had only one desire—to regain their health. They did not listen to the enemy radio either so that they could not have learned anything. I talked to many of these men, and I know they were interested only in their military service. Only one percent of those inducted into the Waffen-SS were employed in the offices and agencies of the Waffen-SS. Very few of these were in a position to learn anything. However, these men did not and would not tell us anything about the nature of their duties since there was in every office of the Waffen-SS and the SS generally posted an order of the Führer saying "You must know only as much as belongs to your official duties, and concerning what you learn, you must be silent."

HERR PELCKMANN: Was the reason for this order of Hitler's a military one?

BRILL: I believe this order of the Führer was in effect for the whole of the Reich. It applied as well to the troops as to the various offices.

HERR PELCKMANN: The troops—do you mean the Armed Forces?

BRILL: Yes, the Armed Forces.

HERR PELCKMANN: Perhaps you know something about another point of the Indictment. When you were still with the staff

of the Leibstandarte, did you learn anything, for example, about the proposed invasion of Austria?

BRILL: It was always the case with the Army that the ordinary soldier was the least informed. The Leibstandarte was no exception. I recall the entry into Austria very well. Although the Leibstandarte, as I believe, was one of the first formations to march into Austria, we made no preparations for this entry. I know definitely, since I was secretary with the staff, that neither the adjutant nor the Hauptsturmführer in the staff knew anything half an hour before we left as to where we were going. When the Leibstandarte was in Austria, there was such enthusiasm that none of us gained the impression that a crime had been committed. The fact that we, as Leibstandarte, moved into Austria, was a matter of course to us because the Führer was there and we, as his bodyguard, went to Austria, too.

HERR PELCKMANN: Witness, in view of the evidence which has been presented here, do you want to deny that millions of killings have taken place which are now being charged against the SS men?

BRILL: I have talked to many members from various internment camps on this subject. I can only repeat what we told each other. The Allies have presented us a big puzzle with the discovery of this crime. We were always trained in honor, discipline, and decency. For 5 years we fought in faithful duty for our fatherland, and now we sit behind barbed wire and everywhere we are called murderers and criminals. I can only say—and I say it for my comrades to whom I have spoken, too—we did not murder. We have nothing to do with, and have known nothing of the abominable atrocities of Himmler who betrayed and deceived us, too, by preferring death to responsibility. By committing suicide, he placed himself outside the ranks of the former SS and that small circle of men who, perhaps through a false sense of obedience, became his assistants and knew how to keep silent. For until today we knew nothing about it.

HERR PELCKMANN: Thank you. I have no more questions.

MAJOR JONES: Witness, you have said that the SS and Waffen-SS in particular, was always trained in honor and decency. Himmler used to come and lecture to your division, the Leibstandarte, you know, did he not?

BRILL: I was not present at any speech which Himmler made to the Leibstandarte.

MAJOR JONES: Did you know that he made speeches to the officers of the Leibstandarte?

BRILL: Yes. As far as I recall, there was a speech at Metz when I was already at the Ergänzungsamt. My comrades told me about it.

MAJOR JONES: Do you know what Himmler said?

BRILL: No.

MAJOR JONES: Did you not think it was right to ask them?

BRILL: Of course. I always asked, because as a former member of the Leibstandarte I was still interested in what was going on. But I did not discuss individual items such as, for example, the speech of the Reichsführer.

MAJOR JONES: Because he was educating your division in what is the very opposite of honor and decency, you know. Did you know, for instance, of the mass murder of the leaders of the Polish nation by the SS?

BRILL: That cannot be possible. I read a great deal of the training material of the Waffen-SS. I did not read any request to commit such mass murders.

MAJOR JONES: Let me read to you two or three sentences from a speech Himmler made to the officers of your own regiment. I refer to Document Number 1918-PS, Exhibit USA-304:

> "Very often the member of the Waffen-SS thinks about the deportation of this people here. These thoughts came to me today when watching the very difficult work out there performed by the Security Police, supported by your men, who helped them a great deal. Exactly the same thing happened in Poland in weather with 40 degrees of cold, where we had to haul away thousands, tens of thousands, hundreds of thousands; where we had to have the toughness—you should hear this but also forget it again immediately—where we had to have the toughness to shoot thousands of leading Poles, otherwise one might later sorely regret it."

Are you saying that you did not know that Himmler said that to your regiment?

BRILL: In the first place, I did not know it. In the second place, as far as I have heard, no members of the Waffen-SS did that. Himmler said "we." I do not know who this "we" is. As far as I heard, that cannot be gathered from the speech.

MAJOR JONES: Himmler was addressing the officers of your regiment, the Adolf Hitler SS Leibstandarte, and told them that the murders shall be the work of the Security Police, namely, your men, the men of your regiment. That is perfectly clear, is it not?

BRILL: No. That is not clear. The whole thing is wrong.

MAJOR JONES: Let me read to you another indication of the honor and decency in which you were apparently being inculcated.

At Page 10 of the German text of Himmler's speech, Page 3 of the English text, you will see how Himmler—you need not trouble to read it at the moment—you will see how Himmler was telling your regiment of the SS that out of the slave labor of the victims of his organization, money was to be raised for the benefit of the SS men. I will read to you what he said.

THE PRESIDENT: We have had this document read before, I think.

MAJOR JONES: Yes, My Lord, I am only going to refer to two sentences of it.

THE PRESIDENT: The witness said he was not there.

MAJOR JONES: That is so, My Lord. What I am suggesting is that this was an address to the officers of his own regiment. At the showing before the Commissioner, it was indicated he joined a month later.

When did you rejoin the Leibstandarte, Witness? In 1941?

BRILL: I joined in 1933.

MAJOR JONES: Did you rejoin it again in 1941?

BRILL: In 1941, from July to August, I was on the Russian front with the Leibstandarte.

MAJOR JONES: So you joined this regiment a few weeks after Himmler had addressed the officers of it?

BRILL: I do not know exactly when Himmler's speech was in Metz.

MAJOR JONES: If it is not desired that I should put the document to the witness, I certainly should not do so against the wish of the Tribunal.

THE PRESIDENT: The Tribunal would rather you did not.

MAJOR JONES: Can you explain to the Tribunal why it was that the Waffen-SS, the personnel of the Waffen-SS, were used in antipartisan activity?

BRILL: No. I do not know that the Waffen-SS was particularly used against the partisans. By virtue of my position, I know that the Waffen-SS was often subordinate to Army units in the rear areas and there, perhaps in exceptional cases, has been employed in antipartisan activities. On the whole, however, the Waffen-SS with its divisions was at the front. I know nothing of the special partisan units of the Waffen-SS.

MAJOR JONES: I suggest to you that for military or other tasks that call for ruthlessness or political fanaticism, the Waffen-SS was used. Is that not so?

BRILL: I do not know that. I know nothing about it. Please give me an example and I will comment on it.

MAJOR JONES: I will tell you what Field Marshal Göring has said about it to the Duce, in the Palazzo Venezia on 23 October 1942. I am referring to the Document D-729, Exhibit GB-281. He described Germany's method in fighting the partisans. He describes the taking away of livestock and the other details of the technique that was advocated; and then Göring says:

> "Germany had experienced that, generally speaking, soldiers were of no use in carrying out such measures. Members of the Party discharged this task much more harshly and efficiently."

If you'll be good enough to listen to me reading it, Witness, it will come over the earphones.

> "Members of the Party discharged this task much more harshly and efficiently. For the same reason armies that were strengthened by a political creed such as the German (or the Russian) fought harder than others. Also the SS, the guard of the old fighters of the Party, who have personal ties with the Führer and who constitute an elite, confirm this principle."

That's correct, isn't it, Witness?

BRILL: I do not know whether the Reich Marshal gave any order to the Waffen-SS to combat the partisans. What the prosecutor has just read is a statement of opinion to another statesman. I do not consider this an order to the Waffen-SS; and for that reason I maintain my testimony that the Waffen-SS as a unit was not used for combating partisans.

MAJOR JONES: If it please Your Lordship, in view of the evidence which is before the Tribunal on the employment of the Waffen-SS and on its pay measures, I am not going to proceed with the cross-examination as to the general matters with which this witness dealt. The Court has indicated that it does not desire me to put matters which should be put in cross-examination before the Commissioners and under these circumstances I have no further questions to ask but I will take my cross-examination before the Commissioners for the purposes of the Tribunal.

MR. COUNSELLOR SMIRNOV: I am going to ask a very few short questions with your permission, My Lord.

As I understood you, Witness, you were very surprised when you learned about the killings in the concentration camps?

BRILL: Yes.

MR. COUNSELLOR SMIRNOV: And you contend that the Waffen-SS did not participate in the killings in the concentration camps?

BRILL: I said that I and countless comrades of the Waffen-SS knew nothing about them. The defendant's counsel told me that killings were carried out. I did not deny it.

MR. COUNSELLOR SMIRNOV: Will you tell us, please, who was in charge of the command within the concentration camp. Was it not the Waffen-SS?

BRILL: No, they were not commands of the Waffen-SS. Certain members of the nominal Waffen-SS were with the commands; but there is a clear order of the High Command of the Armed Forces which I have already mentioned. It is included in the Army circular of December 1940, and states that members of the Death's-Head units do not do any military service in the sense of the Waffen-SS. Members of the Death's-Head units....

MR. COUNSELLOR SMIRNOV: I would like to ask you to be more concise. So you contend that the commands in concentration camps were not Waffen-SS commands?

BRILL: The commands were not under the High Command of the Waffen-SS; but I wish to point out that members of the Waffen-SS were with the commands. This is the difference.

MR. COUNSELLOR SMIRNOV: Now, were these commands not commands of the Waffen-SS?

BRILL: No, they were not commands of the Waffen-SS.

MR. COUNSELLOR SMIRNOV: Another question, before I refresh your memory on these matters. Is not the High Command of the Waffen-SS responsible for the most terrible crimes committed in the concentration camps?

BRILL: The Inspectorate of the Concentration Camps was the supreme authority for the guard personnel and for the commands of the concentration camps; and this inspectorate was responsible, as far as I know, for all concentration camps.

MR. COUNSELLOR SMIRNOV: What was the rank of Glücks? Do you know that name?

BRILL: Glücks was the chief of the Inspectorate of the Concentration Camps.

MR. COUNSELLOR SMIRNOV: I am asking you about his military rank. Was he a general of the Waffen-SS?

BRILL: I believe he was a lieutenant general of the Waffen-SS.

MR. COUNSELLOR SMIRNOV: Sir, please allow me, in order to refute the words of the witness, to present a document which, although it is a private document, has an exceptional evidential value and without which the material of the proceeding would be incomplete. I am speaking now of a circular letter of the Major

General of the Waffen-SS, Glücks, about the utilization of human hair in the concentration camps. If the Tribunal please, while evidence was presented concerning the Auschwitz Concentration Camps, we mentioned that 7 tons of hair cut off from 140,000 women's heads had been found there. We did not know till now what was to be done with this hair; but now we have an original document which I am submitting. This document has been found in the archives. I will quote the whole document, Document Number USSR-511, with your permission. I am quoting:

"Secret. SS Economic and Administrative Main Office, Amtsgruppe D, Concentration Camp, Oranienburg, 6 August 1942. Copy Number 13. Regarding: Utilization of cut hair. To the commanders of the concentration camps. . . ."

And then 13 concentration camps are mentioned. I skip them.

"The chief of the SS Economic and Administrative Main Office, SS Obergruppenführer Pohl, on the basis of a report submitted to him, has ordered that all human hair cut in concentration camps be appropriately utilized. Human hair is to be used for the manufacture of industrial felt and to be spun into yarn. Out of combed and cut hair of women, hair-yarn socks for U-boat crews are to be made, as well as hair-felt stockings for employees of the Reich railways.

"Therefore, I order that the hair of women prisoners after due disinfection be collected. Cut hair of male prisoners can only be utilized beginning with a length of at least 20 millimeters.

"SS Obergruppenführer Pohl, therefore, gave his consent that by way of experiment the hair of male prisoners should be cut only when it reaches a length of 20 millimeters.

"In order to avoid facilitating escape through the increase in length of hair, in all cases where the commander deems it necessary to earmark the prisoners, a strip of hair should be clipped by means of a narrow clipper right over the middle of the head.

"The hair gathered in all the camps will be utilized by creating a special production unit in one of the concentration camps. More detailed instructions as to the delivery of the collected hair will be given separately.

"Reports on amount of hair gathered each month, male and female recorded separately, must be submitted on the 5th of each month, beginning with 5 September 1942.

"Signed: Glücks, SS Brigadeführer and Major General of the Waffen-SS."

Now, Witness, I would like you to look at the stamp. Do you see this stamp? It says, "Waffen-SS Kommandantur, KL Sachsenhausen." Do you still assert that the command of the camps was not composed of the Waffen-SS?

BRILL: Yes. I will explain that. The commands of the Waffen-SS—the commands of the concentration camps were officially on the budget of the Waffen-SS, as it was necessary to have all economic . . .

MR. COUNSELLOR SMIRNOV: So they were on the budget of the Waffen-SS, were they not?

BRILL: I said they were on the budget of the Waffen-SS. For economic reasons it was necessary that the commands, in their dealings with the Reich, operate under the name of an organization which had the possibility of working with Reich funds and with the Reich authorities.

MR. COUNSELLOR SMIRNOV: To clarify this question, Mr. President, may I draw your attention to the stamp where it is said, "Kommandantur, KL Sachsenhausen, Waffen-SS." This proves that the Waffen-SS was in charge of the command. I have no further questions.

THE PRESIDENT: Do you want to re-examine?

HERR PELCKMANN: Witness, I will also ask the next witness about what I am asking you now in one final question. Did you ever hear the expression "nominal Waffen-SS"?

BRILL: Yes. The expression "nominal Waffen-SS" was applied by us for the guards and commands of the Waffen-SS, insofar as these commands were in the Waffen-SS at all, that is to say in the "nominal Waffen-SS." Within the Waffen-SS, as I have already explained when mentioning the regulations for replacement, we had the Waffen-SS proper, that is, the troops; and then on the economic budget of the Waffen-SS, we had various formations which, at the order of Himmler, were put there so that they could enjoy the advantages of the Waffen-SS with regard to dealings of an economic nature, *et cetera,* with the authorities.

HERR PELCKMANN: Then the term "nominal Waffen-SS" was a technical expression which was known everywhere?

BRILL: Yes. The Waffen-SS proper, that is the troops, were under a command office of the Waffen-SS unless they were at the front and thus under the Army. And this Inspectorate of the Concentration Camps was not under the command office of the Waffen-SS and received no orders from this office. The Inspectorate of the Concentration Camps, Glücks' office, had its own channel of command. As far as I know, it received its mail independently, and so forth. It did not come into closer contact with the Waffen-SS

and, to my knowledge, not even with the WVHA, although it was an Amtsgruppe of this office.

HERR PELCKMANN: Thank you.

THE TRIBUNAL (Mr. Biddle): Witness, you said that the Kommandaturen were within the budget of the Waffen-SS. Did you mean on the budget of the Waffen-SS?

BRILL: On the budget as far as I know.

THE TRIBUNAL (MR. BIDDLE): Of the Waffen-SS?

BRILL: On the budget of the Waffen-SS, as far as I know.

THE PRESIDENT: And was the Inspectorate of Concentration Camps also on the budget of the Waffen-SS?

BRILL: I cannot say that for sure.

THE PRESIDENT: How were the Waffen-SS paid in the first place? Were they paid in the same manner as the Wehrmacht?

BRILL: Yes.

THE PRESIDENT: Were they paid the same amounts?

BRILL: Yes.

THE PRESIDENT: And was their budget in the budget of the Wehrmacht or was there a separate budget?

BRILL: Yes.

THE PRESIDENT: What do you mean "yes"? Was it in the budget of the Wehrmacht, or was it a separate budget?

BRILL: We were paid according to the pay order of the Army, that is, from the budget of the Wehrmacht.

THE PRESIDENT: So in all respects as far as pay went, you were part of the regular Army, is that right?

BRILL: Yes, that's right.

THE PRESIDENT: Why then did you keep this separate designation of Waffen-SS if you were part of the Wehrmacht?

BRILL: I assume that Himmler and particularly Hitler wanted it that way. He wanted to have a Waffen-SS, a special troop.

THE PRESIDENT: You had separate uniforms, did you not? You had different uniforms from the Wehrmacht?

BRILL: We had the same uniforms, only different insignia. That is, we had the same shoulder insignia, only in addition we had stars and stripes which the Wehrmacht did not have.

THE PRESIDENT: To what extent after you joined the Army, were you still subject to Himmler's command?

BRILL: We were not under Himmler's orders at all. Up to 1939 we were as SS Verfügungstruppe under Hitler's orders; and then the

Waffen-SS was also under the orders of Hitler in his capacity as Supreme Commander of the Armed Forces.

THE PRESIDENT: Did Himmler have anything to do with the Waffen-SS?

BRILL: Yes. For example, Himmler had the right of inspection, he had the right to make promotions; and with regard to administration and the care of the troops, and also, as far as I know, on legal matters, Himmler, that is, his main offices had an influence.

THE PRESIDENT: The witness can retire.

HERR PELCKMANN: Your Lordship, to clear up the question which the Tribunal has just asked, I consider it necessary to call the head of WVHA, Amtsgruppe D, the witness Pohl. It is not quite sure . . .

THE PRESIDENT: Is he one of the witnesses that have been allowed to you?

HERR PELCKMANN: He is not one of these witnesses. I want only to prepare orally for my written application which I shall hand in.

THE PRESIDENT: The Tribunal thinks you had better call your next witness, Dr. Pelckmann.

HERR PELCKMANN: The next witness will be well qualified to testify on the questions that were asked the last witness. I shall make my suggestion for the cross-examination of the witness Pohl in writing.

I call the witness Hauser.

[The witness Hauser took the stand.]

THE PRESIDENT: Will you state your full name, please?

PAUL HAUSER (Witness): Paul Hauser.

THE PRESIDENT: Will you repeat this oath after me: I swear by God the Almighty and Omniscient—that I will speak the truth—and will withhold and add nothing.

[The witness repeated the oath.]

THE PRESIDENT: You may sit down.

HERR PELCKMANN: When were you born?

HAUSER: I was born on 7 October 1880.

HERR PELCKMANN: You were a professional soldier?

HAUSER: Yes.

HERR PELCKMANN: When did you leave the Armed Forces?

HAUSER: On 1 February 1932 I left the Reichswehr as a lieutenant general.

HERR PELCKMANN: How did you come to the SS?

HAUSER: In 1933, as a non-Party member, I joined the Stahlhelm and with this organization I was transferred to the SA reserve in 1934. After the events in the summer of 1934, I was asked by Heinrich Himmler whether I would be willing to take over the establishment and direction of an officer candidate school. I accepted this assignment, and in November 1934 I joined the Verfügungstruppe.

HERR PELCKMANN: At what time and in what position did you acquire the knowledge which enables you to appear here and testify as a witness for the SS?

HAUSER: From Easter 1935 to the summer of 1936 I directed the school. Then I was inspector of the Verfügungstruppe from 1936 to 1939. During the war, for 2 years in each capacity, I led an SS division and an SS Panzer corps, and then from 1944 on I was again in the Army, as commander-in-chief of an army group. I am in a position to give information on the Verfügungstruppe in peacetime and on the Waffen-SS during the war, as far as I became acquainted with them personally, and as far as they were under my orders. I do not know the General SS. During the war I was not employed at any main office.

HERR PELCKMANN: What was your last rank in the Waffen-SS?

HAUSER: I was Generaloberst in the Waffen-SS.

HERR PELCKMANN: What was your last position?

HAUSER: My last position, at the beginning of 1945, was Commander-in-Chief of Army Group D, on the southern flank of the Western Front.

HERR PELCKMANN: About how many divisions were under you at that time?

HAUSER: This army group had 20 to 30 divisions alternately, only two of which belonged to the Waffen-SS.

HERR PELCKMANN: How did you, as a general of the Waffen-SS, get a leading position in the Army?

HAUSER: That was a result of the close co-operation between the Army and the Waffen-SS. I can have been recommended to this job only by reason of favorable opinions of my superiors in the Army.

HERR PELCKMANN: Let us go back to the initial stages. When was the Verfügungstruppe created? How strong was it, and how did it develop?

HAUSER: The beginnings of the Verfügungstruppe go back to the year 1933. In this year the Leibstandarte was created as a sort

of bodyguard for Adolf Hitler. Following that, some battalions were formed for representational purposes. Only at the very beginning, in 1933 and 1934, were men of the General SS employed; later the very youngest of the age groups subject to military duty were recruited.

HERR PELCKMANN: What was the strength in 1936, and, for instance, in 1939?

HAUSER: In 1936 there were three infantry regiments and three technical battalions. In 1939 there were four infantry regiments, one artillery regiment, and three technical battalions.

THE PRESIDENT: The Tribunal thinks this would be a convenient time to break off.

[A recess was taken.]

THE PRESIDENT: The Tribunal will adjourn at half past 4 this afternoon.

HERR PELCKMANN: Witness, what was the purpose and the task of the so-called Verfügungstruppe? Was it to serve as a new armed force alongside the Armed Forces?

HAUSER: The purpose and the tasks were laid down in the basic decree of Adolf Hitler of August 1938. According to that decree the Verfügungstruppe was to belong neither to the Armed Forces nor to the Police. It was a permanent troop at the disposition of Adolf Hitler, and it was paid from State funds. The training was supervised by the High Command of the Army and replacements were taken from volunteers of the youngest age groups.

HERR PELCKMANN: Was the Verfügungstruppe, therefore, meant to be a political nucleus? The Prosecution accuses it of being a special instrument for the oppression and elimination of political opponents and of having aided realization of the Nazi ideology by use of force.

HAUSER: That is not true. The Verfügungstruppe had neither political nor Police tasks. It developed gradually into a test troop which incorporated all the old soldierly virtues with the requirements of our socialist age. It paid special attention to the relations between officers and men, encouraged advancement without special examinations, and did away with any and all exclusiveness.

HERR PELCKMANN: Were the members of the Verfügungstruppe expected to render blind obedience?

HAUSER: No. We swore obedience and loyalty to Adolf Hitler and to our superiors. Unconditional obedience leading to crime was not expected and was not sworn to.

HERR PELCKMANN: The Prosecution is particularly accusing the Verfügungstruppe for inciting racial hatred and for the persecution of the Jews as one of its special tasks. Was the troop trained for these purposes?

HAUSER: The political and ideological training could only be achieved by schooling. I, personally, as director of the school and as an inspector, have closely watched this training, for I was a new man myself and had first to acquaint myself with these ways of thinking. I can testify that race hatred and the extermination of Jewry or of the Eastern peoples was never taught and was never demanded.

HERR PELCKMANN: According to the Prosecution, this troop served for the purpose of preparing for an aggressive war. Was Germany's predominance by terror and the conquest of all Europe taught?

HAUSER: These young troops needed time and peace for the fulfillment of their tasks. Their commanders were all veterans of the first World War. They knew war and they knew what misery it had brought to us once already. The thought of terrorizing German domestic life or of dominating Europe never entered the mind of this small, young troop.

HERR PELCKMANN: Can it be deduced from the organization of this Verfügungstruppe, even before the re-establishment of conscription in 1936, that by its formation a breach of the Treaty of Versailles was intended?

HAUSER: Before the re-establishment of conscription, this troop had consisted at the most of 4,000 to 5,000 men and could not be used for either a defensive or an offensive war. And later, too, it was not prepared for war, as it had no divisional staff, no general staff, no replacement of men or officers. It was far from being ready for a war of aggression.

HERR PELCKMANN: What tasks did you personally have as inspector of the Verfügungstruppe?

HAUSER: I was not a commander vested with power to issue orders but rather an inspector responsible for the training and education of the troop. Beyond that, I had to enforce orders which I received from Heinrich Himmler on questions of organization.

HERR PELCKMANN: Did the replacements consist of volunteers? And where did they come from? What were the motives for their joining?

HAUSER: Until the beginning of the war replacements came from volunteers only. In the first years, that is in 1933 and 1934 only, they came from the General SS.

The volunteers were recruited in the entire country. Their applications, which were sent in in large numbers, were not determined by questions of ideology. They were men who wanted to do their military service in a well-known and highly motorized unit.

THE PRESIDENT: What relations existed between the Verfügungstruppe and the other various branches of the organization which were under Heinrich Himmler's uniform command?

HAUSER: I have mentioned already that only at the time of the establishment of the troop did we have personal contacts with the local Oberabschnitte of the General SS. These contacts decreased, especially when the inspectorate was established as a main office, and they ceased to exist altogether even before the war. There were neither official nor personal relations with the Death's-Head units, which had the task of guarding the concentration camps—a task belonging more to the Police sphere. Not even in the joint garrison at Dachau were there any relations. Neither were there any official or private contacts with the SD. The tasks of the SD were not known. I might mention that in peacetime I hardly spoke a dozen words to Obergruppenführer Heydrich, the chief of the SD, when I once met him in the antechamber of Heinrich Himmler's office.

THE PRESIDENT: What can you tell us about the task of the Death's-Head units?

BRILL: The tasks of the Death's-Head units were laid down in the basic decree of August 1938. At times they furnished guards for the concentration camps, although they had no permission to enter the camps. Their replacements were recruited among the German youth or among men who had already served their term of military service. Their training was not supervised by the Armed Forces but it was on military lines.

HERR PELCKMANN: Was service in the Death's-Head unit equal to service in the Armed Forces?

HAUSER: No, it did not count as service in the Armed Forces.

HERR PELCKMANN: And these young volunteers who were recruited, did they know that they were to be used to guard concentration camps?

HAUSER: I did not have an insight into the recruiting of the Death's-Head units, but I do not believe that they were told the aim.

HERR PELCKMANN: What do you know about the participation of the Verfügungstruppe in the incidents of 30 June 1934 and 9 November 1938?

HAUSER: I cannot speak about the participation on 30 June 1934 for at that time I was not in the Verfügungstruppe, but I do know that the men of the Verfügungstruppe were convinced that the

executions which were carried out had been caused by acts of the State executive power. The Verfügungstruppe was in no way connected with the excesses of 9 November 1938. The large majority, such as the Leibstandarte and the regiment at Munich and all the recruits, had gathered at Munich for the annual induction program.

HERR PELCKMANN: Now, what do you understand under the Waffen-SS?

HAUSER: After the beginning of the campaign in the autumn of 1939 three divisions at first were formed by men recruited from the Verfügungstruppe, the Death's-Head units, and from men who had been trained for the Police. All these were grouped together with various other smaller units and received the name of Waffen-SS. These few divisions proved their worth, and with the increasing need for more troops for the war they were gradually increased up to more than 35 divisions. The main reason for this unplanned growth is due to the fact that all racial Germans who volunteered from the north, from the east, and from the southeast of Europe, served in the Waffen-SS. The total strength, all losses considered, may be estimated at about 900,000 men. Only one-third to one-half may have been Reich Germans.

HERR PELCKMANN: At the end of the war?

HAUSER: Yes, at the end of the war.

HERR PELCKMANN: The Prosecution asserts that the Waffen-SS deliberately participated in a war of aggression. Is that assertion correct?

HAUSER: The members of the Waffen-SS did not have the impression that they were participating in a war of aggression, and that they were being used for that purpose. They lacked any and all insight as to whether the war was one of aggression or one of defense. Their oaths bound them to their duties. It was not possible for them to refuse to participate in a war.

HERR PELCKMANN: Was there a uniform or unified SS High Command during the war? To whom were the divisions subordinate during the war?

HAUSER: A unified SS High Command did not exist during the war. The main office in Berlin was the leading administrative agency. All divisions of the Waffen-SS were incorporated into the Army and fought under the command and, in the final analysis, under the responsibility of the Army. I personally, in the 5 years and 6 months of the war, received orders only from the Armed Forces offices and agencies.

HERR PELCKMANN: Did Heinrich Himmler have any influence on the divisions of the Waffen-SS, and if so, what influence did he have?

HAUSER: The divisions which had been incorporated into the Army were subordinate to Heinrich Himmler only in matters dealing with personnel and replacements, with judicial questions and fundamental problems of organization.

HERR PELCKMANN: The Prosecution states that the Waffen-SS used special means of combat and that they deliberately fought cruelly, used terror methods, and carried out mass exterminations.

HAUSER: I must deny this emphatically. The troop was young, it had no tradition, and it had no name. It had to prove its worth first. The commanders had one ambition only, which was to win fame and prestige for this troop through courageous but fair methods of combat. Since some of the divisions fought together with the Army the generals of the Army would not have tolerated any methods deviating from regular fighting, and just as they took steps in tactical matters they would have stepped in if this accusation of a terrorist method of fighting had been justified. They would have noticed it just as we would have noticed it, for at critical times the commanders are on the road for days on end and they see how the troops are fighting and can judge what methods are being used.

HERR PELCKMANN: Were the officers and men instructed about adhering to international law?

HAUSER: Even in peacetime, as part of their training, the officers and men were instructed on the rules of the Geneva Convention and the Hague Rules of Land Warfare. This instruction and supervision, of course, were continued during the war.

HERR PELCKMANN: Is it correct that Himmler once said that the successes of the Waffen-SS were to be credited to terroristic measures?

HAUSER: Heinrich Himmler once used this expression in a speech. I reported to him that it was completely wrong, that we had not gained our successes through terror methods but only through the courage of officers and men who were ready to sacrifice themselves to the last man if necessity arose.

HERR PELCKMANN: What basic principles were applied by the troop for the treatment of prisoners of war?

HAUSER: The prisoners of war were treated according to the rules which applied in the Army, that is to say, that the billeting, the food, and the medical attention were just like in the Army. I myself, while lying wounded in different field hospitals, noticed that friend and foe were treated alike, and the old manner of dealing with prisoners was applied.

HERR PELCKMANN: Did these principles suffer any change by the naming of Himmler to the rank of commander-in-chief of the

replacement army and thereby simultaneously to chief of the Prisoners of War Organization?

HAUSER: Not with regard to the Waffen-SS. But in his capacity as commander-in-chief of the replacement army Heinrich Himmler was also given authority over the Prisoners of War Organization, and he decreed that the Higher SS and Police Leaders at home be charged with the supervision of the security measures of the prisoner-of-war camps. I do not know the details however. I can only state that thereupon the Higher SS and Police Leaders were made generals of the Waffen-SS.

HERR PELCKMANN: The Prosecution asserts that the Waffen-SS, because of their will to destroy, committed Crimes against Humanity and crimes against the laws of war in the occupied countries and arbitrarily destroyed cities and villages. Did the Waffen-SS participate in those measures?

HAUSER: I had occasion to see these troops in many theaters of war. I lived with the population in the East and West. The relationship was always a good one. It was based on mutual aid and assistance. Where we had to call upon the population for work, for instance, in road building, they received food for their services. The arbitrary destruction of villages would only have made it more difficult for us to get accommodations. I do not remember a single case in which the front troops of my division had ever taken hostages or destroyed villages as a punishment.

HERR PELCKMANN: Before the Eastern campaign, had you known of a decree of Hitler's which allegedly said that excesses of the troops toward the civilian population were not to be punished?

HAUSER: That was not the wording of the order. Rather, it left the decision as to whether the troops, in their excesses toward the civilian population were legally to be prosecuted by the court itself, whereas formerly the court was under obligation to prosecute. I personally had ordered in my district that, with the view to maintaining discipline, such excesses were to be prosecuted by law, and the judgments which were reported to the Reichsführer show that excesses were punished very severely.

HERR PELCKMANN: Do you know the Commissar Order?

HAUSER: The Commissar Order was addressed only to the corps. In 1941 we did not have any corps, that is general commands. Accordingly this decree was and is unknown to me, and therefore, we could not have been guided by it. I recall only having seen a later decree which demanded the segregation of the commissars. The troops, in reality, were not so much concerned with this order for the commissars were for the most part not recognized by the fighting troops.

HERR PELCKMANN: Was the fight against the partisans a special task of the Waffen-SS, and was this to be considered a fight of extermination?

HAUSER: The fight against partisans is a purely military, political, police . . .

[The proceedings were interrupted by technical difficulties in the interpreting system.]

THE PRESIDENT: The Tribunal will adjourn for today.

[The Tribunal adjourned until 6 August 1946 at 1000 hours.]

ONE HUNDRED AND NINETY-SIXTH DAY

Tuesday, 6 August 1946

Morning Session

THE PRESIDENT: The Tribunal will sit in closed session on Thursday afternoon. That is to say, it will not sit in open session after 1 o'clock on Thursday. It will sit in open session on Saturday morning until 1 o'clock.

HERR PELCKMANN: Witness, was the Waffen-SS a special fighting unit for the combating of partisans, and was the fight against the partisans considered to be a war of extermination?

HAUSER: The fight against partisans is a general military and political police measure, which can be assigned to any troop; front line troops of the Army and of the Waffen-SS were used only in exceptional cases, for instance when they were in the rear areas. There were usually no partisan fights in the operational areas; they mostly took place in the rear areas only. This fighting was mainly the task of the Security Division of the Army and special defense battalions, and besides these of police troops. Units of the Waffen-SS at the front were not especially trained for this kind of fighting and were assigned this duty just as little as Panzer divisions of the Army, for instance. In the East, units of my divisions were never used in the fight against partisans at any time. Therefore it was not a special task for SS units, and they were not especially trained or instructed for this purpose.

HERR PELCKMANN: What relation existed between the Waffen-SS on the one hand, the Security Police and Order Police and the so-called Einsatzgruppen and the Einsatzkommandos of the SD on the other?

HAUSER: These various branches of the organization of Heinrich Himmler unfortunately wore the same uniform, though they had different insignia. The only thing they had in common was their chief, Heinrich Himmler. The various branches were completely separate from each other even before the war. This separation was intensified more and more during the war. The units of the Waffen-SS were under the command of the Army authorities. The other branches, SD, Police, *et cetera,* were subordinate to Himmler.

HERR PELCKMANN: Did you hear anything about the SD Einsatzgruppen?

HAUSER: At the beginning of the campaign I had heard, verbally, about as much about the SD Einsatzgruppen as the commanders-in-chief of the army groups knew, namely, that they were used in the rear areas alongside the Secret Field Police, with the task of screening the population and securing material from the enemy administration centers. I never had any personal contact with any of these branches and therefore I cannot give you any further information about their activity.

HERR PELCKMANN: Is it therefore true that only during your arrest did you hear anything at all about the participation of small units of the Waffen-SS, altogether about three to four companies, besides the Police and Gendarmerie?

HAUSER: Only during my arrest here did I hear of these matters.

HERR PELCKMANN: Did the Higher SS and Police Leader belong to the officers corps of the Waffen-SS?

HAUSER: The Higher SS and Police Leaders did not belong to the Waffen-SS. They had no authority to command and they had nothing to do with us.

HERR PELCKMANN: Did the Waffen-SS furnish the guard units and the so-called command personnel for the concentration camps?

HAUSER: The guards of the concentration camps and the personnel in the command did not belong to the Waffen-SS. Only in the course of the war were these units designated as Waffen-SS in order to release them from military service and give them freedom to carry out their police duties. The members of the Waffen-SS considered this measure, which they learned of only after the war, a deliberate deception on the part of Himmler. We did not have anything to do with the men of the concentration camps and the guard personnel.

HERR PELCKMANN: It has not become quite clear yet, Witness, just what you meant when you said "to release them from military service." Will you explain that in more detail?

HAUSER: All persons who served at home and in the Police had to be exempted from military service in the Army by the Wehrkreis or district commander in order to carry out their police tasks. That did not apply when all guard units were designated as Waffen-SS, for these were a part of the Armed Forces. In the main offices in Berlin these units, in order to differentiate them, were designated nominal Waffen-SS. But all this I learned only here later.

HERR PELCKMANN: The Prosecution asserts that the Waffen-SS was only a part of the whole SS organization and that as such it was needed for the carrying through of the joint criminal conspiracy. Please comment on this.

HAUSER: I believe that it can be gathered from all of my testimony that the Waffen-SS was a completely independent unit and connected with other organizations only through the person of Heinrich Himmler. This separation of the various branches was undoubtedly intensified during the war. Therefore, we could not have harbored common criminal plans with the others or participated in carrying them through.

HERR PELCKMANN: Surely you felt yourself to be a part of the Army?

HAUSER: We were completely incorporated into the Army, and the designation "fourth branch of the Army," although it was not an official designation, was really much to the point.

HERR PELCKMANN: Apart from the accusation concerning the concentration camps, the Prosecution further asserts that the Waffen-SS, on the basis of its training, was a particularly cruel military tool; and that is to be shown, allegedly, by the participation of the Waffen-SS men in the evacuation of the Warsaw ghetto and, so says the Prosecution, in the violations of international law such as the murder of prisoners of war. Is that correct?

HAUSER: I already testified, yesterday, that our training was not organized to that end, that our method of fighting was supervised and ordered by the Army, and that we did not gain prestige through cruel methods. The commanders who had personal pride in leading a clean fighting unit against the enemy saw to that. I learned only here of the participation of small units of the Waffen-SS in the evacuation of the Warsaw ghetto or in the executions which took place in Bohemia and Moravia. This can only be a question of small details of replacement units which were temporarily subordinated for a brief period of time.

I regret to say that during my arrest I heard of two trials against members of the Waffen-SS. One of these proceedings has not been concluded as yet, and my conscience does not allow me to make any comments on it.

HERR PELCKMANN: You mean the killing of prisoners?

HAUSER: Yes. These incidents are not the result of training, but rather the failure of individuals, perhaps the giving way of nerves when in difficult situations deep in enemy territory. But these accusations should not be generalized. Even if there had been ten instead of only two cases, the ratio as applied to the entire membership of the Waffen-SS of 1 million men would mean there

would be one case to every 100,000 men. Such incidents are the results of the intensification of combat on the ground and in the air during a long war; incidents which have occurred on both sides and will always continue to occur. You cannot hold the bulk of the Waffen-SS responsible.

HERR PELCKMANN: What influence did Heinrich Himmler actually have on the moral attitude of the members of the Waffen-SS?

HAUSER: Heinrich Himmler most assuredly tried in peacetime to exert his influence on the small Verfügungstruppe. During the war this was practically impossible. He did not address troops of the Waffen-SS. On occasion he did talk to some officers and commanders of some divisions in the field. It was generally known that Heinrich Himmler, who had done only 1 year's military service, had no conception of the military and underestimated the military tasks and the work involved. He liked to play the role of the strong man through exaggeration and through superlatives. If someone comes along with big words, the soldier on the front does not pay much attention.

Therefore, the influence of Himmler was very insignificant during the war. He wore his uniform, of course, but the reputation of the Waffen-SS was established by its officers, by the example they set and by their daily work.

HERR PELCKMANN: Was the influence of Himmler on the commanders perhaps stronger than on the masses of SS soldiers?

HAUSER: Quite the contrary. The commanders, of course, were under him so far as military obedience was concerned. But they had the right to criticize through their own experience of life and of the world, and as a matter of fact this criticism was necessary in the face of Himmler's extravagant and romantic ideas. These men had enough experience so that they could translate his statements into the language and manner of thought of the soldier. The critical attitude toward Heinrich Himmler increased continually during the war. In most cases he believed that he could dispense with the advice of an experienced soldier. Objections were cut off short with the words, "This is the typical viewpoint of a general"—viewpoints which he opposed.

HERR PELCKMANN: Is it correct that Heinrich Himmler in his speeches broke out into exorbitant invective against the Jews and the Slavs?

HAUSER: I know only about the speech at Kharkov in 1943, in which he mentioned three points which called forth our criticism and opposition. I have already expressed myself on the one point,

namely, the terror which was to precede us. His distasteful statements about the Jews referred to Germany only and did not indicate extermination in any way.

His references to the superior numbers of our Eastern enemy could only be interpreted by the common soldier to mean that this very superiority in numbers would have to be offset in battle.

HERR PELCKMANN: What special points of criticism did the officer corps direct against Heinrich Himmler?

HAUSER: Without doubt he thought that after the war the various organizations which were subordinate to him, the SS and perhaps the Police also, could be united into one organization, which was just the opposite of the situation during the war, and our intentions were directed against this.

HERR PELCKMANN: To what extent were the crimes in concentration camps, such as the extermination of the Jews, known to the Waffen-SS? I should like you to remember that you speak not only for yourself as a highly placed general, but that you also speak for the simple SS man, based on your own experience, of course.

HAUSER: It sounds quite unlikely, and foreign countries do not wish to believe that the members of the Waffen-SS as well as myself knew nothing of the crimes of which we have heard here. This perhaps may serve as an explanation: At home only those who had victims in the concentration camps learned anything about them; only the ever-present secret opposition spread stories and rumors. This was kept from the SS man. If he happened to hear something by chance, he thought that it was hostile propaganda. Foreign radio broadcasts or newspapers were unknown to him, for they were forbidden at home. The bulk of the Waffen-SS was facing the enemy. The war tasks grew from year to year and the efforts became more intense. The SS man did not have the time or opportunity to check rumors, and like myself he was surprised and indignant about all these things which Himmler had done contrary to what he had preached to us in peacetime.

HERR PELCKMANN: Do you know the speech of Himmler's made at Posen, in which he mentioned the fact that thousands and tens of thousands of Jews had been killed?

HAUSER: I did not hear that speech at Posen, and only learned of it here during my arrest. As far as I know, the speech was addressed to the leaders at home and in the occupied countries. Members of the Waffen-SS were not present at all, or if so, only in insignificant numbers.

HERR PELCKMANN: The units for the guarding of the concentration camps were designated as Waffen-SS as well, and ranks of

the Waffen-SS were given to persons connected with the concentration camp system. Did you know anything about these matters during the war?

HAUSER: I have already mentioned that the designation of concentration camp guards as Waffen-SS men became known to me only after the war. However, I must add that Heinrich Himmler deliberately tried to efface the dividing lines between his various organizations before the eyes of the public, and examples of that are precisely the designation of the concentration camp guard units as Waffen-SS and the giving of ranks in the Waffen-SS to persons who had nothing to do with the fighting troops.

HERR PELCKMANN: Do you consider that the Waffen-SS, in its majority, participated in the crimes which indubitably were committed?

HAUSER: No. The Prosecution chains the Waffen-SS to the fate of Heinrich Himmler and a small circle of criminals around him. The Waffen-SS is taking this quite bitterly for it believes that in its majority it fought decently and fairly. It is far removed from these crimes and from the man who is responsible for them. I should like to ask the High Tribunal to please listen to the accounts and the judgments of the front soldiers on your side. I believe that they will not fail to show us respect. Wherever specific incidents occurred they were exceptions. The Waffen-SS considers it quite unjust that it is being treated differently from the mass of the German Armed Forces and it does not deserve to be outlawed as a criminal organization.

HERR PELCKMANN: Mr. President, I have no further questions to this witness.

MAJOR JONES: Witness, you heard Himmler's Kharkov speech in April 1943 to the commanding officers of the three SS divisions in the East, did you not?

HAUSER: Yes, I heard that speech.

MAJOR JONES: And you remember that he ended his speech by saying:

> "We will never let that excellent weapon fade, the dread and terrible reputation which preceded us in the battle for Kharkov, but will constantly add new meaning to it."

Do you remember his saying that?

HAUSER: Yes, indeed.

MAJOR JONES: And your units of the Waffen-SS constantly added new meaning to your reputation for terror, did you not?

HAUSER: No. I have already expressed quite the contrary yesterday and today. I considered it as an insult to say that our

successes were dependent on terror. Quite the contrary, I said that our successes resulted from the brave fighting of officers and men.

MAJOR JONES: Yesterday you told the Tribunal that the relations of the Waffen-SS with the local population were good, and that your Waffen-SS troops did not take hostages or destroy villages as punishments, or commit War Crimes. That was your evidence, was it not?

HAUSER: I said that the relations were unobjectionable and good, that we did not displace any part of the population to work in Germany.

MAJOR JONES: I want you to listen now to some documents I am going to put in with regard to the SS generally and with regard to the Waffen-SS in particular; first, two documents from your own sources.

The first, My Lord, is Document D-419, to be Exhibit GB-552. I am not proposing to cross-examine the witness as to these numerous documents, My Lord. It appears to be the desire of the Tribunal that they should be put in as speedily as possible.

THE PRESIDENT: If they are new documents, you can cross-examine him upon them.

MAJOR JONES: If Your Lordship pleases. The first Document, D-419, is a report by a general of artillery named Petzel, dated 23 November 1939, with regard to the internal situation in the Warthegau, western Poland, incorporated into the Reich, as the document describes it.

I need not trouble you with the first page of the document, the report of 2 December and the letter of 30 November, but if you read the letter of General Petzel dated 23 November 1939, the second paragraph reads:

> "The great work of construction in all spheres is not furthered by the intervention of SS formations, which are assigned for special racial political tasks and which are not subordinate in this respect to the Reichsstatthalter. There is a tendency to interfere, beyond the limits of these tasks, in all fields of administration and of forming a 'state within the state.'
>
> "This phenomenon does not fail to have its effect on the troops, who are indignant about the way the tasks are carried out and thereby generally get into opposition to the administration and the Party. I shall exclude the danger of serious differences by strict orders. The fact that this makes a serious demand on the discipline of the troops cannot be dismissed without further ado."

Then, the next paragraph:

"In almost all large towns, public shootings have been carried out by the afore-mentioned organizations; the selections varied enormously and were often incomprehensible, the executions frequently brutal.

"In some districts all the Polish estate owners were arrested and interned with their families. Arrests were almost always accompanied by looting.

"In the towns, evacuations were carried out, during which blocks of houses were cleared at random, the inhabitants loaded on to lorries at night and then taken to concentration camps. Here also looting was a constant accompanying phenomenon. The quartering and feeding in the camps was such that the medical officer of the corps feared the outbreak of epidemics which would be a danger to the troops. . . .

"In several towns actions against the Jews were carried out which turned into the most serious excesses. In Turek three SS cars under the leadership of a Higher SS Leader drove through the streets on 30 October 1939 while the people in the streets were hit on the heads at random with oxen reins and long horsewhips. Among the victims were also people of German blood. Finally a number of Jews were driven into the synagogue; there they had to crawl in between the benches while singing, during which time they were continuously whipped by the SS men. They were then forced to take down their trousers in order to be hit on the bare behind.

"A Jew who out of fright had dirtied his trousers was forced to smear the excrement into the faces of the other Jews.

"In Lodz it has become known confidentially that SS Oberführer Melhorn has issued the following orders:

"1) From November no unemployment relief may any longer be paid to Poles and Jews, only forced labor is paid for. (This measure has already been confirmed.)

"2) From 9 November, Jews and Poles will be excluded from the distribution of rationed foodstuffs and coal.

"3) Unrest and incidents are to be created by provocation in order to facilitate the carrying out of the racial political work."

The rest of the document I need not trouble you with.

That is an insight into the activities of the SS in Poland in November 1939.

The next German document is the Document D-578.

My Lord, my attention has been drawn to another sentence in the Document D-419, which I should like to draw the Tribunal's attention to, the last paragraph but one:

"As the military commander of Posen has already reported to the High Command of the Army, the men feel very strongly about the disproportion between their pay and the daily rate of pay of other formations which is many times higher than theirs."

The Document D-578 is a report by a German Brigade Commander of the 1st Mountain Brigade, Colonel Pericic. It is dated 26 September 1943. This document, My Lord, will be Exhibit GB-553. It is a report on the activities of the SS units in the area of Popovaca in Bosnia. I only want to trouble you with the first two paragraphs:

"On 16 September 1943 an SS unit of 80 men marched from Popovaca to Osekovo for the compulsory purchase of cattle. I was not notified by anybody about the arrival of this unit in the technical operational area of the 1st Mountain Brigade and about the activity of this unit in the area for which I alone am responsible.

"A short time after their arrival in Osekovo this unit was attacked by partisans. Under the pressure of the numerically superior partisans, this unit had to retreat in the direction of the railway station, which they succeeded in doing, but they had four men seriously and several lightly wounded, among them the unit commander. One man was missing, and they also lost an armored car. The unit commander then reported from Popovaca by telephone that when he had to retreat, he had killed all persons who were in the open because he had no chance to distinguish between the loyal population and the partisans. He himself said that he killed about 100 persons in this incident."

Now I want to put in some documents from the victims of some of these atrocities, first from the Yugoslav Delegation, the Document D-945.

Witness, you appreciate that the Prinz Eugen Division was a division of the Waffen-SS, do you not?

[There was no response.]

THE PRESIDENT: Witness, did you hear that question?

MAJOR JONES: Witness, I asked you . . .

HAUSER: Yes; this division belonged to the Waffen-SS.

MAJOR JONES: The Document D-945, My Lord, will be Exhibit GB-554. It is an extract from a report to the Yugoslav State Commission for ascertaining the crimes of the occupiers and their accomplices. I want to read the second and third paragraphs:

"In accordance with the order of the commander of the 118th German Division, an SS battalion of the Prinz Eugen Division and a battalion of the Teufel Division under the command of the German Lieutenant Colonel Dietsche, carried out on 27 March 1944 and on the following days a 'purge action' from Sinj in the direction of . . ."—various villages whose names are set out.

"On 28 March this SS battalion overran the villages of Otok Cornji, Ruda, and Dolac Dolnji one after the other and carried out horrible massacres, destructions by fire and looting. Those beasts murdered on a single day in the three above-named Dalmatian villages 834 people—besides grown-up men, also women and children—set on fire 500 houses and looted everything there was to be looted. They removed rings, watches, and other valuables from dead bodies. The mass slaughter was carried out in all the villages in the same horrible manner. The German soldiers gathered women, children, and men in one place and then opened fire on the crowd with machine guns, threw bombs at them, looted their property, and burned the bodies. In the House Milanovic-Trapo 45 burned bodies were found. In another house in the same village of Otok 22 unburned corpses were found in a pile. In the village of Ruda they collected all the people in one place and killed all of them. Those who happened not to be collected were killed when they were found. Not even the smallest babies at their mothers' breasts were spared. In some places the victims were soaked in petrol and set on fire. They also killed those who offered them hospitality out of fear. They also killed those people who were forced to follow them to carry their ammunition and other things. According to the evidence of reliable witnesses, the massacres were prepared beforehand, and this all the more so as the above-mentioned villages gave no reason whatsoever previous to the 'purge action' for any kind of reprisals . . ."

That report is signed by the President of the State Commission, Dr. Dusan Nedeljkovic, university professor.

Then the Document D-940, which will be Exhibit GB-555, which is another extract from the Yugoslav State Commission report signed by the same President of the State Commission, Dr. Dusan Nedeljkovic, on the crimes of the 7th SS Division, Prinz Eugen, in Crna Gora, Montenegro. It reads:

"The various German divisions operating in the area of occupied Yugoslavia marked their path by traces of devastation and annihilation of the peaceful population—traces which will testify to the criminal character of the German conduct of the war for many years to come. The operations of the German divisions were in reality punitive expeditions. They destroyed and burned down whole villages and exterminated the civil population in a barbarous manner, without any military necessity whatsoever.

"The 7th SS Division, Prinz Eugen, is famed for its cruelty."

Then I go on to the next paragraph:

"Wherever it passed—through Serbia, through Bosnia and Herzegovina, through Lika and Banija or through Dalmatia—everywhere it left behind scenes of conflagration and devastation and the bodies of innocent men, women, and children who had been burned in the houses.

"At the end of May 1943 the Prinz Eugen Division came to Montenegro to the area of Niksic in order to take part in the fifth enemy offensive in conjunction with the Italian troops. This offensive was called 'Action Black' by the German occupying forces. Proceeding from Herzegovina, parts of the division fell upon the peaceful villages of the Niksic district.

"Immediately after its invasion, this formation, opening fire with all its arms, commenced to commit outrageous crimes on the peaceful villages for no reason at all. Everything they came across they burned down, murdered, and pillaged. The officers and men of the SS Division Prinz Eugen committed crimes of an outrageous cruelty on this occasion. The victims were shot, slaughtered, and tortured, or burned to death in burning houses. Where a victim was found not in his house but on the road or in the fields some distance away, he was murdered and burned there. Infants with their mothers, pregnant women, and frail old people were also murdered. In short, every civilian met with by these troops in these villages was murdered. In many cases whole families who, not expecting such treatment or lacking the time for escape, had remained quietly in their homes, were annihilated and murdered. Whole families were thrown into burning houses in many cases and thus burned.

"It has been established from the investigations entered upon that 121 persons, mostly women, and including 30 persons aged 60-92 years and 29 children of ages ranging from 6 months to 14 years, were executed on this occasion in the horrible manner narrated above.

"The villages . . ."—and then follows the list of the villages—"were burned down and razed to the ground."

Then it accounts for the destruction of furniture. Besides this the German soldiers drove all the cattle away from the villages and plundered jewels and money before burning these villages. Then over on the next page:

"For all of these most serious War Crimes those responsible besides the actual culprits—the members of the SS Division Prinz Eugen—are all superior and all subordinate commanders as the persons issuing and transmitting the orders for murder and devastation.

"Among others the following war criminals are known: SS Gruppenführer and Lieutenant General of the Waffen-SS Phleps; Divisional Commander, Major General of the Waffen-SS Von Oberkamp; Commander of the 13th Regiment, later Divisional Commander, Major General Schmidthuber; Commander of the 14th Regiment, later Divisional Commander, SS Standartenführer Bachmann; SS Sturmbannführer Dietsche; the Commander of the Italian 16th Regiment . . ."—and then there follow the names of about another 10 high-ranking German SS regimental and other commanders.

THE PRESIDENT: Well, shouldn't you ask whether they are Waffen-SS?

MAJOR JONES: Those men, Witness, were members of the Waffen-SS, were they not? Just look at the names.

HAUSER: I know part of these names. They were leaders in the Waffen-SS.

MAJOR JONES: Let us take them in turn—Phleps, divisional commander?

HAUSER: Yes.

MAJOR JONES: He was a lieutenant general like yourself; wasn't he one of your colleagues in the Waffen-SS?

HAUSER: Yes.

MAJOR JONES: And, SS Major General of the Waffen-SS Karl Ritter von Oberkamp. He was an SS, was he not?

HAUSER: I know the next few names: Oberkamp, Schmidthuber, and Dietsche; the rest of the names I do not know.

MAJOR JONES: But you do not deny that they were officers—from the description of them, that they were officers in the Waffen-SS?

HAUSER: I would assume so, even though I do not know the origin of this report. These are most likely reports which were gained by hearsay and were put together somehow.

MAJOR JONES: I won't trouble you with the value of the reports as documents, Witness. That is a matter for the Tribunal.

Now I want you to listen to documents which I am putting in on behalf of the Polish Delegation, again relating to the SS. The first series of documents relates to the shooting of hostages on the command of SS functionaries and by SS men. The first is Document 4041-PS, which will be Exhibit GB-556, which consists of 31 posters for the years 1943 to 1944, signed by the Chief of the SS and Police in Warsaw, or in some cases by the Commander of the Security Police and of the SD for Warsaw, announcing the killing of hostages.

The Tribunal will see that in those grim records of murder there are listed varying numbers of the victims of the Nazi occupation. In Poster Number 25, for instance, on Page 16, there is a list of 270 hostages shot; Poster 29, Page 20, there are 200 hostages shot; Poster 31, Page 26, there are 100 hostages. These SS shootings were certainly not an original SS conception. I hand in the two documents, 4038-PS and 4039-PS which are . . .

THE PRESIDENT: Mr. Elwyn Jones, I think you should ask the witness whether—or put it to him, whether there is any connection between the Waffen-SS and this document.

MAJOR JONES: If Your Lordship please.

HAUSER: Unfortunately I have an English copy before me. I am not completely conversant with the English language and could not follow the question, but I gather that these are all measures which were taken in Warsaw. Just as in the case of the first document which dealt with the Warthegau, the Waffen-SS had nothing to do with Warsaw. These were definitely things . . .

THE PRESIDENT: Wait until you are given the proper copy.

MAJOR JONES: I am not suggesting, naturally, My Lord, that all the documents I am putting in relate only to the Waffen-SS branch of the SS organization. The whole Prosecution's case on the SS is that there was a unity between the various sections of the SS.

THE PRESIDENT: Yes, but you should give him the opportunity of making his point if he wishes to.

MAJOR JONES: Yes, Your Lordship.

[Turning to the witness.] Have you had an opportunity of looking at those posters now, Witness?

HAUSER: I have seen that the signatures are only those of SS and Police Leaders, who had nothing to do with the Waffen-SS, as I have already stated earlier today.

The same applies to the incidents in the Warthegau where, in November of 1939, there were no units of the Waffen-SS. Documents 3 and 4 are the only ones that apply to the Waffen-SS where they mention the Prinz Eugen SS Division. I cannot check the date on that since I have never been to the Balkans.

THE PRESIDENT: Was the Teufel Division also Waffen-SS? Was it Keitel's division?

HAUSER: No. There never was a Teufel Division.

MAJOR JONES: You say there never was a Teufel Division in Yugoslavia?

HAUSER: Not in the Waffen-SS, no.

MAJOR JONES: I shall call some subsequent testimony with regard to that, My Lord, if the Tribunal would allow me, at a later stage, to cross-examine on the whole question of the unity of the SS. It would involve putting in old documents and I understand that there was a certain reluctance on the part of the Tribunal to permit me to do that; but I should be quite content to draw the Tribunal's attention . . .

THE PRESIDENT: Mr. Elwyn Jones, the Tribunal doesn't desire you not to cross-examine but only not to read out and put to the witness documents which have already been put in; you can put the facts which are in the document to the witness for the purpose of cross-examination.

MAJOR JONES: If Your Lordship please. Then at a later stage in my cross-examination I will return to that subject if the Tribunal permits me to do so. I should like to put these documents in first, if I may.

THE PRESIDENT: Mr. Elwyn Jones, I think what the Tribunal meant was that it did not want you to put long passages or short passages from documents which the witness has never seen and which are already in evidence but you may cross-examine the witness upon any document apart from that.

MAJOR JONES: If Your Lordship please. Then I shall return to cross-examination on this general issue after I have put these documents in, if I may, My Lord.

I put in Documents 4038-PS and 4039-PS, to be Exhibits GB-557 and 558, which show that the SS shootings in Warsaw were a continuation of the practice of the civil power of the Government General from the period before March 1941. I need not trouble the witness with these documents.

Then the Document D-956, to be Exhibit GB-559, which is an official Polish report on German crimes in Poland. I only desire to draw the Tribunal's attention to an entry on Page 184 of that

report relating to the shooting of hostages, which says that the approximate number of Poles killed in Warsaw from the beginning of the public executions until the insurrection, from 5 October 1943 until 1 August 1944, was about 8,000, most of whom had been caught in manhunts in the Warsaw streets.

HERR PELCKMANN: Your Lordship, may I be permitted to make a reference to the method of procedure?

Mr. Jones said that he does not wish to submit to the witness the document which he is now submitting to the High Tribunal. I am of the opinion that a submission of documents is possible at this stage only in connection with the cross-examination; that is, for ascertaining whether the statements of the witness are credible or not. Otherwise, the Prosecution could introduce new incriminating material without any connection. I should like to ask in that case to give the witness an opportunity to comment.

MAJOR JONES: I have no objection at all, of course, to the witness seeing all the documents. I was only, in the interest of time, referring to one sentence in this document which the witness heard interpreted, and I should have thought that was sufficient; but by all means I should let the witness see all the documents.

THE PRESIDENT: Dr. Pelckmann, the Tribunal has already ruled that these documents can be put in in this way, and Mr. Elwyn Jones is referring to specific passages in the documents and you have the opportunity of re-examination and you have a copy of the document, and you can put any question you like upon the document when you come to re-examine.

MAJOR JONES: I next present some documents relating to atrocities committed by the SS in connection with the destruction of Warsaw. First is the Document 4042-PS, which will be Exhibit GB-560, which consists of three affidavits from another official Polish report entitled *The German Crime in Warsaw in 1944.*

The first affidavit is by the witness Alexandra Kreczkiewicz, who states that:

> "In August, I lived at.... The SS men ordered me to move into a house across the road. Our house as well as the house next door was set on fire. In August we were informed that we would fare badly and would be shot. Several hundred persons were assembled in our house; on 4 August at 11 o'clock, the Germans surrounded the house and gave us the order to evacuate the apartments. We heard some shots at the entrance, which started an awful crying of children and women. Several persons were killed and wounded. The Germans drove us into a potato field and ordered us to lie down; there could

be no question of escape as we were closely guarded. A few minutes later we were ordered to get up and we were driven under a bridge which was nearby. To the question of one of the women as to where we were being taken to, we got the answer: 'German women and children are perishing by your fault; therefore, all of you must perish.' We were lined up and a group of 70 people was separated from us and ordered to go behind the bridge on the hill; the rest, including myself, were assembled near a wall behind a barbed wire fence. From different points nearby we heard shots; the victims of the Germans were dying. We were huddled together and I was on the outer edge of the crowd. At a distance of 5 meters, one of the executioners very quietly loaded his machine gun; another one was preparing his camera to take pictures of the executions. Several Germans were guarding us; we heard several shots, noises, groans. I fell down wounded and lost consciousness. After a while I came back to my senses and I heard how they were finishing off the wounded. I did not move and I simulated death; they left one of the Germans on guard and the rest of them went away. The executioners set fire to the huts and the houses in the neighborhood. I was scorched by the heat and almost suffocated by the smoke and my dress was smouldering. The German was still on guard, so quietly I tried to smother the flames on me."

Then she describes how she ran to a cellar and she says . . .

THE PRESIDENT: This is a woman, is it?

MAJOR JONES: This is a woman. At the end:

"The group of people shot in my presence numbered some 500 persons, of whom no more than three or four managed to escape. All the executioners were SS men."

The next is an affidavit from the witness Bronislav Dylak, who describes the SS atrocities in a hospital in Warsaw:

"Very badly wounded in the stomach I was hospitalized in the field hospital, Dluga Street 7. On 7 September 1944 the Germans ordered the nurses and those of the inmates who were able to walk to abandon the hospital leaving behind the heavily wounded.

"I was in this latter group and we stayed in the ward situated in the cellar. In the whole hospital there were still a few hundred sick and heavily wounded who could not leave the hospital. Shortly after the nurses had left the hospital in the evening the German SS arrived; shooting started. First those who, with a superhuman effort, left their

beds and dragged themselves to the doors and the staircases to get out and save themselves were immediately killed by the Germans. Two murderers burst into our ward. One had a candle in his hand—it was already dark. The other, with a pistol, shot and killed the men lying in beds, while shouting 'bandits.'

"Together with a few of the inmates of our ward, I was miraculously saved because the passage to our beds was obstructed by other beds. Our hall had been partitioned in two wards; I was in the second and smaller room, the entrance to which was obstructed. In the first room all were killed; the second ward was saved by a pure miracle, maybe because somebody was calling the murderers away. We heard many shots from the other wards. The execution went on throughout the hospital.

"Later on, the Germans checked whether everybody was dead. My comrade lying next to me stained himself with blood on his chest and head in order to simulate death. One of the Germans, speaking Ukrainian, went about among the killed and struck them in their faces with his gun. It was a terrible night. A hand grenade, thrown through the window into our ward ripped my friend's belly. Finally the building was set on fire. The fire spread very quickly; those who tried to escape were killed. A woman in our ward succeeded in pushing aside inflammable stuff near the entrance, thereby preventing our ward from catching fire. All other wards, as well as the staircase, were on fire; the smoke, the smell of burning corpses, indescribable thirst . . ."—And then the last sentence—"Thus, out of several hundred heavily wounded at the hospital in Dluga Street 7, only a few score were left alive."

And the third affidavit is by Maria Bukowska, who states that:

"On 7 August 1944, by order of the SS, the inhabitants of the whole district had to abandon their houses, which were immediately set on fire. There were several thousands of us who were driven and pushed about by the SS. All who fell down, as well as anyone who tried to help them, were beaten."—And further on in the statement—"We are marching on; there is shooting once more. A car full of SS men approaches and officers get out. They inspect our column and take away three young, pretty girls, the two sisters N. and another girl, unknown to me. The car drives off, the girls cry out, trying to defend themselves against molestations of the SS officers. An old woman has fallen; she cannot go on any more. An SS officer shoots her in the

neck."—And then at the last—"In the church at Wola the rest of our belongings are taken away from us. All the young girls, sometimes no more than 12-14 years of age, are left behind, while the older ones, with the children, are led to the western station and then by railway to Pruszkow."

Those were crimes of the SS, were they not, Witness?

HAUSER: That was not the Waffen-SS. They are always only a group of men who belonged to Himmler and who had nothing whatsoever to do with the fighting troops. We never fought at Warsaw.

MAJOR JONES: Are you denying that the Waffen-SS took part in the destruction of Warsaw?

HAUSER: I have not been there and therefore I cannot make any comments. But to my knowledge, there was no fighting there; it was a riot which was quelled, as several witnesses have testified.

MAJOR JONES: It was a revolt—and then the mass extermination by the SS troops; that's what happened in Warsaw, wasn't it?

HAUSER: The Waffen-SS participated only to a very small extent because the Waffen-SS was in combat.

MAJOR JONES: Next, I put in the Document D-954, to be Exhibit GB-561, which are depositions by Professor Tomkiewicz of the University of Warsaw and Dr. Lorentz, Director of the National Museum in Warsaw, on the looting and deliberate piecemeal destruction of Warsaw by German formations, including SS men. I attempt to summarize the documents.

The next, Document 2233(dd)-PS, is a further extract from the diary of the Defendant Frank showing the co-operation between the SS and the civil power in the course of this murderous event.

THE PRESIDENT: What is the reference?

MAJOR JONES: 2233(dd)-PS, My Lord, Exhibit GB-562. That is an entry from the diary of the Defendant Frank from 16 October 1944:

"The Governor General received SS Oberführer Dirlewanger and SS Untersturmführer Ammann in the presence of SS Sturmbannführer Pfaffenroth. SS Oberführer Dirlewanger reports to the Governor General on the employment of his combat group in Warsaw. The Governor General thanks SS Oberführer Dirlewanger and expresses to him his appreciation for the excellent employment of his combat group in the fighting in Warsaw.... Lunch on the occasion of the presence of SS Oberführer Dirlewanger."

Now, Dirlewanger was the commander of the units operating in Warsaw, was he not?

THE PRESIDENT: Can you offer any evidence as to what units these officers were commanding?

MAJOR JONES: I am just going to put it to the witness, My Lord.

[Turning to the witness.] Dirlewanger was the commander of the units operating in Warsaw, was he not?

HAUSER: Dirlewanger was the commander of a picked troop of men from the concentration camps. He had no connection with the Waffen-SS. I did not meet him personally, nor his troops, so I can give no further testimony from my own knowledge.

MAJOR JONES: Were the officers of his units SS officers?

HAUSER: I cannot give you information as to that, for I do not know these units.

MAJOR JONES: I shall be producing further documentary evidence on this issue at a later stage, My Lord.

Now I want to put in an affidavit dealing with the participation of the SS in the extermination of the Jews, and this part will be specific evidence as to the participation of the Waffen-SS. The first is Document D-939, Exhibit GB-563. That is an affidavit by Izrael Eizenberg, and he states:

"I lived in Lublin and from there I was sent to Maidanek in the beginning of 1942. However, as a prisoner I continued to work for the Germans, who employed me as an expert for electro-mechanical jobs in the various SS buildings and SS offices in Lublin. I worked as an electro-mechanic in the palace building of the SS and Police Leader Globocznik and in the headquarters of the SS in Lublin, Warsaw Street 21. The Waffen-SS were also there. On the outer wall the notice 'Waffen-SS' could be seen and on the pass which I received at the entrance, the words 'Waffen-SS' were also marked. I knew all the officers, for instance, Oberscharführer Riedel, Rottenführer Mohrwinkel, Unterscharführer Schramm and so on. I know that the leaders of the Waffen-SS, as well as the regiment of the Waffen-SS—whose seat was in the same building where I worked—participated directly in all the expulsions of the Jews from the district of Lublin. During these expulsions thousands of persons were killed on the spot and the rest sent away for extermination. I myself have seen how, in the winter of 1941, the Waffen-SS of 21 Warsaw Street participated in the deportation of several hundred Jews to Maidanek,

whereby several persons were killed on the spot. At that time my father was also deported because of his long beard, as this action mainly concerned Jews with beards. I know that Rottenführer Mohrwinkel directed this action and was promoted to the rank of Untersturmführer in appreciation of his work. I worked for the Waffen-SS until November 1942, that is, until I was transported to Radom. They participated the whole time in all the crimes of the SS in Lublin and in the district. I wish to point out that these SS men kept their horses in the stables on the airdrome where there was a notice, 'Mounted Regiment Waffen-SS.' "

Then the next document is D-953, which will be Exhibit GB-564.

THE PRESIDENT: I think you should give the witness an opportunity to speak about this document if he prefers.

MAJOR JONES: If Your Lordship wishes.

Witness, you heard me reading out of that last affidavit of Izrael Eizenberg. You see that he alleges that the Waffen-SS participated directly in the collection of Jewish people for extermination and he refers to the Mounted Regiment of the Waffen-SS—that was in the Lublin district engaged in these operations. These were men of the Waffen-SS, weren't they?

HAUSER: The names that were read off were not the names of officers. They are names of Rottenführer and Scharführer. Of course, I do not know the names of every man in a unit. I have no proof that they were members of the Waffen-SS. In 1942 the front lines were not in Lublin but were quite a bit further to the east. Perhaps they were replacement troops. The name "Mounted Unit" was mentioned once, and that was a replacement troop of a mounted brigade about which I cannot give you further particulars.

MAJOR JONES: Are you merely seeking to distinguish between Waffen-SS that were engaged in action on the lines and SS units engaged in other activities on the rear? Don't you think . . .

HAUSER: Normally only troops of replacement units can be used behind the lines because the other units were constantly at the front.

MAJOR JONES: This affidavit establishes perfectly clearly that these were SS troops, does it not? What other troops could they be?

HAUSER: Riders of the Waffen-SS could have been men of an Einsatzgruppe who had a task behind the lines.

MAJOR JONES: You mean they were masquerading under the name of the Waffen-SS units?

HAUSER: That is not probable.

MAJOR JONES: I want you to turn to another document which might assist you in this matter, Document D-953, which will be Exhibit GB-566. The last is GB-565. I beg your pardon, Your Lordship, but this will be Exhibit GB-565. This is an affidavit by David Wajnapel:

"A few weeks after the entry of the German troops into Radom, Police and SS arrived. Conditions became immediately worse. The house in the Zeromskist, where their headquarters were, became a menace to the entire population. People who were passing this street were dragged into the gateway and ill-treated by merciless beatings and by the staging of sadistic games. All SS officers as well as the men took part in this. Being a physician, I often had the opportunity to give medical help to seriously injured victims of the SS.

"After a short time the SS uniform became a menace to the population. I myself was beaten up until I bled by four SS men in the street in spite of my doctor's armlet. Later on two ghettos were established in Radom. In August 1942 the so-called 'deportation' took place. The ghettos were surrounded by many SS units who occupied all the street exits. People were driven out to the streets, and those who ran away were fired at. Sick people at home or in hospitals were shot on the spot, among others also the inmates of the hospital where I was working as a doctor. The total number of people killed amounted to about 4,000. About 3,000 people were spared and the rest—about 20,000 people—were sent to Treblinka. The whole action was directed and executed by the SS. I myself saw that the SS staff were on the spot forming groups and issuing orders. In the streets and in the houses SS men ill-treated and killed people without waiting for orders.

"After the 'deportation' the remaining people were crowded into a few narrow lanes and we came under the exclusive rule of the SS and became the private property of the SS who used to hire us out for payment to various firms. I know that these payments were credited to a special SS account at the Radom Bank Emisyjny. We had to deal with SS men only. Executions carried out by the SS in the ghetto itself were a frequent occurrence. On 14 January 1943 another 'deportation' to Treblinka took place. On 21 March 1943 there took place throughout the whole district the so-called action against the intelligentsia, which action, as far as I know, was decided upon at an SS and Police Leaders' meeting in

Radom. In Radom alone about 200 people were shot at that time; among others, my parents, my brother and his 9 month-old child met their deaths.

"On 9 November of the same year all Jewish children up to 12 years of age as well as the old and sick were gathered from Radom and from camps situated near Radom and shot in the Biala Street in Radom. SS officers as well as SS men participated in this.

"From March 1943 on I stayed 18 months in Blizyn Camp. The camp was entirely under the SS and the Radom Police Chief's control. Its commander was Untersturmführer Paul Nell. The guards were composed of SS privates and non-commissioned officers. The foremen were Waffen-SS men who had been wounded at the front. They all behaved in an inhuman manner by beating and ill-treating us. Shootings of people were frequent occurrences. Originally, sentences were passed by the SS and Police Leaders, later on by the camp commander. The SS men were certainly well-informed about the bloody deeds which were committed by the SS in Poland, in particular they told me personally about mass murders of Jews in Maidanek (in November 1943). This incident is an open secret. It was common knowledge among the civil population as well as among the lowest-ranking SS men. When the camp was taken over by the Maidanek Concentration Camp new guards were sent to our camp, but there was no difference between them and the previous ones. In July 1944 the whole camp, including myself, was sent to the Auschwitz Camp, which could be entered only by SS men. The conditions of this camp are well known. I escaped during the evacuation of this camp into Germany. On the way, the SS escort machine-gunned exhausted prisoners and later on, near Rybnik, the rest of the marching column. Several hundred people were killed at that time."

Now, Witness, throughout that affidavit the participation of the SS troops is underlined. Do you deny the SS participated in the murders of Jewish people in view of affidavits like that?

HAUSER: The Police and SS were specifically mentioned in this document and there is no Waffen-SS in places where the Police worked with the SD. I have emphasized several times in connection with the camps which have been named that they had nothing in common with the SS except, most unfortunately, the name.

Of all the examples cited by the Prosecution's attorney I must admit only that the Prinz Eugen Division and the mounted units of Warsaw are members of the Waffen-SS. Beyond that, I cannot tell anything on the basis of my own experiences.

THE PRESIDENT: Will you read the last paragraph to him?

MAJOR JONES: The last paragraph may help you on this:

"I emphasize that during the few years of war, due to being a Jew and a doctor, I met a great number of SS men from the Waffen-SS as well as of other formations and of various ranks, but I must state that I noticed no difference between them as far as their inhuman attitude toward the civilian population was concerned."

The Waffen-SS was always the cause for any of these police actions against the local population. That was its function on the whole, certainly.

HAUSER: No, the Waffen-SS was incorporated into the Army.

MAJOR JONES: Did you ever, on this particular point, see Hitler's directive about the future of the SS?

HAUSER: I did not understand your question.

MAJOR JONES: Did you ever see Hitler's directive?

HAUSER: I am not familiar with the directives by Hitler regarding the future of the SS.

MAJOR JONES: Yes. In that directive, which is, I think, familiar to the Tribunal—it is Document D-665, Exhibit GB-280—Hitler points out that the function of the Waffen-SS is to be the spearhead of Nazism, to be used as an agent for effective action against resistance at home and against opposition in foreign countries. Did you not see those instructions of Hitler's on the role of the Waffen-SS?

HAUSER: Is that perhaps a directive sent by Hitler to the military offices dealing with the future of the Waffen-SS after the war?

MAJOR JONES: That was a directive of 1941, which was distributed to regimental units and was made available to the Waffen-SS. I have not got the document available at the moment. Do you say you never heard of that?

HAUSER: No, I know of only one order, which was an oral one and which contained the measures and intentions with regard to the organization after the war; a directive which went to the various Army units only.

THE PRESIDENT: Perhaps this would be a convenient time to break off.

[A recess was taken.]

MAJOR JONES: If Your Lordship please, I want to make a slight correction of the exact numbers of these documents.

The Document D-953 was put in twice as GB-564 and 565. D-953 will be Exhibit GB-564 and the next, Document D-955, will be Exhibit GB-565.

THE PRESIDENT: The last document you mentioned will be what—564, 565? You mentioned some other document after that.

MAJOR JONES: The next, Document D-955, which I am just putting in, will be Exhibit GB-565. This is a final affidavit from a Jewish merchant, Mojzesz Goldberg, and it reads:

"1) On 23 June 1941 I was called up into the Soviet Army in Lemberg. In the middle of July I was taken prisoner by the Germans. At a locality 5 kilometers from Podwoloczysk the SS companies sought the Jews out of the whole mass of prisoners and shot them on the spot. I remained alive as they did not recognize me as a Jew. I stress the fact that it was the Waffen-SS who did this.

"2) After my captivity was ended, I lived in Radom and worked from June 1942 to July 1944 for the Waffen-SS at 3 places: the SS Veterinary Reinforcement Detachment, Koscinski Street; the Garrison Administration of the Waffen-SS, Planty 11; and the Building Directorate of the Waffen-SS, Slowacki Street 27. As I worked so long for the SS, I know the names and faces of all the officers and NCO's of the above-named detachments of the Waffen-SS very well. At the head of the SS Veterinary Reinforcement Detachment were Sturmbannführer Dr. Held and Hauptsturmführer Schreiner; at the head of the Garrison Administration there was Obersturmführer Grabau (at present in Dachau Camp) and at the head of the Building Directorate, Oberscharführer Seiler. All the persons mentioned took a direct part, together with their companies, in carrying out the expulsions in Radom on 5, 16, and 17 August 1942, during which some thousands of people were shot on the spot. I know that the SS Veterinary Reinforcement companies went to the provincial towns to carry out the 'expulsions' of Jews. I heard individual soldiers boasting about the number of Jews they had killed. I know from their own stories that these same companies participated in the actions against Polish partisans and also set the surrounding Polish villages on fire."

Witness, do you still say that the Waffen-SS had no part in the atrocities that were committed in Poland?

HAUSER: It is my impression that this document is not credible. How could units of veterinary companies participate in such measures? I cannot say more than that because I do not know the particular units.

MAJOR JONES: It is a document by a man who worked for 2 years for the Waffen-SS, who knew them personally, who spoke to them. He is a man of 36 years who suffered at their hands and he has mentioned in detail whatever the Waffen-SS units are concerned with. Do you still say that the Waffen-SS had no part in these matters?

HAUSER: These are units in the rear, which apparently did not belong to the Waffen-SS. I cannot say more than that.

THE PRESIDENT: Do you know the names of any of the officers who are mentioned in this letter?

HAUSER: No.

THE PRESIDENT: Have you ever been in Radom?

HAUSER: No.

THE PRESIDENT: Do you know whether there were Waffen-SS at any of these places named in this affidavit?

HAUSER: I did not understand, Your Lordship.

THE PRESIDENT: Do you know whether there were Waffen-SS headquarters of units at any of the places named in that affidavit?

HAUSER: The units which were mentioned cannot, to my knowledge, have been stationed there; nor any headquarters, either.

THE PRESIDENT: Well, the person making the affidavit states the units which were quartered at particular places in Radom, and what I was asking was whether you knew what units were stationed at those places?

HAUSER: No, that I cannot say.

MAJOR JONES: Witness, you have said that the Waffen-SS units respected international law and committed no atrocities in the field.

With your permission, My Lord, I am now proposing to hand in a summary of the charges submitted to the United Nations War Crimes Commission by the national commissions of the various countries which suffered at the hands of the Waffen-SS. In addition to this summary, I can hand in certified true copies of the charges themselves which set out the facts of the incidents that are complained of. I submit that such charges and such summaries have probative value. It is true that the charges themselves have not yet resulted in trials and that the culprits named have not themselves been tried. The reasons for that are manifold, but I do submit that these summaries of charges have probative value and I invite the Court's ruling with regard to them.

THE PRESIDENT: Perhaps you can tell us a little bit more about the nature of the documents you are seeking to put in evidence?

MAJOR JONES: The documents I am seeking to put in evidence set out, under the names of the various Waffen-SS divisions, the unit involved, the date of the commission of the offense complained of, the place, the nature of the incident itself, and the source of the information. They are from the files of the United Nations War Crimes Commission, or a SHAEF Court of Inquiry which put the matter up to the United Nations War Crimes Commission.

THE PRESIDENT: As to the witness, it is only a reference. It does not contain the evidence or summary of the evidence, does it?

MAJOR JONES: It contains the summary of the evidence. The certified charges which I shall hand in to the Tribunal contain much fuller details than the summary itself I intend to use on the witness. There is no objection to Your Lordship's looking at one of them.

THE PRESIDENT: Mr. Elwyn Jones, are you submitting the reports under Article 21 in any way?

MAJOR JONES: That is my submission, My Lord. They are official reports submitted by the national authorities to the United Nations War Crimes Commission and they embody evidence of witnesses and are reduced into summary reports formed as charges.

If Your Lordship would care to look at one of the charges as an illustration without prejudice to the question whether the Tribunal would admit the document or not, it might be helpful. If Your Lordship please, my learned friend Sir David Maxwell-Fyfe is in a position to list the arrangement of the United Nations War Crimes Commission with regard to these charges, and it might be helpful if Sir David would indicate the machinery to the Tribunal.

SIR DAVID MAXWELL-FYFE: My Lord, one might commence with Article 21, that says:

> "It"—the Tribunal—"shall also take judicial notice of official governmental documents and reports of the United Nations, including the acts and documents of the committees set up in the various Allied countries for the investigation of war crimes . . ."

My Lord, the procedure which was set up was that the United Nations War Crimes Commission, under the chairmanship, first of Lord Findlay and then of Lord Wright, would gather the material, examine it, and send it back to the respective prosecuting nation. The procedure was that the national office sent a report to the United Nations War Crimes Commission who then considered it and sent it back to the authority in the various countries that dealt with the prosecution of the crimes.

My Lord, what is being put forward at the moment is a synopsis of the report sent by various countries to the United Nations War Crimes Commission, in the form of the suggested charges that should

be brought and a summary of the supporting evidence. These are available and authenticated, and the document which we should like to use, for the convenience of the Tribunal, is a synopsis of these charges, showing the unit, the date, the place, the incident, and the source, including the United Nations War Crimes Commission's files.

THE PRESIDENT: But, Sir David, as I understand what you said, these documents, of which this is a summary, would come forward to the United Nations War Crimes Commission for some action by them, for some form of approval, after which they would send them back to the countries concerned and they would be sent to a Tribunal for the purpose of trying those individuals for whom the United Nations War Crimes Commission approved the trial. This is a summary of charges which has not been approved by the United Nations War Crimes Commission.

SIR DAVID MAXWELL-FYFE: They may or may not. It is the earlier stage of a report of the United Nations War Crimes Commission. Each of the United Nations had its national office for investigating and reporting on War Crimes. That was an essential step the national office had—first of all, to collect the evidence, put forward the charge, and put forward that report to the United Nations War Crimes Commission. It then came back with an approval or a comment of the United Nations War Crimes Commission to the prosecuting authority of the various countries.

If, My Lord, simply for the sake of clarification, I can give my own example when I was in the charge of this: The British national office was in charge of Sir Thomas Barnes, the Treasury Solicitor, who collected the reports from the various committees of inquiries. He sent these forward to the United Nations War Crimes Commission. They made their comment. It then came back to me and I decided whether there would be a prosecution or not. My Lord, I am putting this forward as an authenticated report of the United Nations. It is the committee which each country established in order to collect the evidence and to forward that evidence to the United Nations body. My Lord, what we are now submitting is the fact that each of the United Nations, by an authoritative committee, collected the evidence, summarized the evidence, and put it forward, which in its form does *ipso facto* give it probative value.

THE PRESIDENT: You say, don't you, that it falls exactly within the words of the third-last line of Article 21. It says, in the following words: "... documents of the committees set up in the various Allied countries for the investigation of war crimes..."

SIR DAVID MAXWELL-FYFE: That is so, yes.

THE PRESIDENT: The Tribunal would like to look at the document and see just exactly what is its make-up. Do you have an original document?

SIR DAVID MAXWELL-FYFE: My Lord, this is one which is certified by Colonel Ledingham, the Secretary General of the United Nations War Crimes Commission. My Lord, here is one which has been accepted by the United Nations War Crimes Commission, as many of them have.

THE PRESIDENT: We have looked at the document. Now, before the Tribunal adjourns for the purpose of considering this matter, they would hear anything further you wish to say, Sir David.

SIR DAVID MAXWELL-FYFE: My Lord, I would call your attention to the number, of course, that had reached the stage of being approved by the United Nations War Crimes Commission. That would be necessary to my argument.

THE PRESIDENT: What you are asking is that you wish to make use of the summary which you have?

SIR DAVID MAXWELL-FYFE: I want to make that comment.

THE PRESIDENT: The approval of the decision rests with the national authority?

SIR DAVID MAXWELL-FYFE: When I was the Attorney General, it rested with me. I understand the same procedure is in effect in other countries where it rests with the national authority.

[Herr Pelckmann approached the lectern.]

THE PRESIDENT: Yes, Dr. Pelckmann.

HERR PELCKMANN: Whether the evidence which is now before the Prosecution is in the appropriate form and whether as a report from Allied Governments or from the United Nations War Crimes Commission it can be used according to Article 21 is something which I cannot personally judge. I leave that confidently in the hands of the Tribunal. What appears important to me is that according to Article 21 the High Tribunal can take cognizance of these things—but, in my opinion, only during the Prosecution's presentation of evidence. We are now in the middle of submitting evidence for the Defense, and if the Prosecution are making these reports the subject of their cross-examination, then there does not seem to be any objection to that, according to rules of procedure. But a mere judicial notice by the Tribunal, without making these reports the subject of cross-examination, I deem inadmissible if the witnesses for the SS who are being called now have to comment on these documents.

THE PRESIDENT: Isn't that really a matter for the Tribunal to decide? It is a matter of whether the documents should be put in now when the witness can comment on them. Whether it comes under Article 21 is a matter to be decided; that is a matter of law.

Whether it should be put in now or after seems to be a matter entirely for the Tribunal.

HERR PELCKMANN: I considered it important to say that if the High Tribunal accept these reports as evidence under Article 21, then, as I see it, I can only assume that the presentation of evidence by the Prosecution has been completed in order to put it before the witness. If the documents are put to the witness, I would consider it fair if, in view of the extraordinary bulk of the documents, the Defense would be given ample time to prepare for examination on these documents. That would take at least two days. The use of these documents by the Tribunal, even if it were for official notice only, without examining the witness about them, is, I think, not permissible, since the presentation of evidence by the Prosecution has been completed and this would mean an inadmissible extension of the material for one side and a limitation for the Defense.

THE PRESIDENT: The Tribunal will consider what you say. The Tribunal will adjourn.

[A recess was taken.]

THE PRESIDENT: The Tribunal does not in any way accept Dr. Pelckmann's submission that it is inconvenient or unfair to the Defense that documents should be put in at this stage. It considers that in all the circumstances of the case and having regard to the late stage at which the Trial has arrived, and having regard to the nature of the document which is offered in evidence by the Prosecution, the Tribunal ought not to admit the document now.

MAJOR JONES: Witness, with what division of the Waffen-SS did you serve during the course of the war?

HAUSER: For two years I led the 2d Division, and later . . .

MAJOR JONES: Just one moment. What was it called? What was its name?

HAUSER: The division later was called "Das Reich"; formerly it had the name "VD Division." From the beginning of 1942 to 1944, the 2d SS Panzer Corps; from 1944 on I was in the Army again.

MAJOR JONES: I don't want to leave the Reich Division for a moment. During what period were you serving with the Reich Division?

HAUSER: I did not understand exactly.

MAJOR JONES: In what periods were you serving with the Reich Division? From what date?

HAUSER: Beginning with its setting up in the autumn of 1939 until I was wounded a second time in October 1941.

MAJOR JONES: You did not return to serve with that division at all?

HAUSER: I did not serve with that division later on because I was then commanding general and commander-in-chief of an army.

MAJOR JONES: So that the Reich Division was the only division you served with in the field as a divisional commander, was it?

HAUSER: No, there were others there after me who commanded.

MAJOR JONES: But the Das Reich was the only division which you commanded personally during the course of the war?

HAUSER: During the time when I was divisional commander I was the only commander of this division.

MAJOR JONES: Did you command any other Waffen-SS division apart from Das Reich?

HAUSER: There were two and later three divisions which belonged to my Panzer Corps.

MAJOR JONES: What were those divisions?

HAUSER: First of all there was the 1st Division, the Leibstandarte; then the 2d Division, Das Reich; and the 3d, the "Totenkopf" Division. Later, in 1944, the 9th and 10th Divisions belonged to it.

MAJOR JONES: What were the names of these divisions?

HAUSER: The names were Hohenstaufen, Götz von Berlichingen —I beg your pardon, Frundsberg.

MAJOR JONES: During what period was the Leibstandarte Division under your command?

HAUSER: The Leibstandarte was under my command from the beginning of 1943, about the end of January, until the beginning of August.

MAJOR JONES: From January 1943 to August 1943?

HAUSER: Yes.

MAJOR JONES: You were in command of that division when it was fighting near Kharkov—you were in command of the corps, rather, in which the Leibstandarte Division was, when it was fighting near Kharkov in the spring of 1943, weren't you?

HAUSER: The division was under my command during the fighting around Kharkov.

MAJOR JONES: Have you any knowledge of the fact that Staroverovka, the town, was burned by the 2d Regiment of the Leibstandarte Division?

HAUSER: No, I know nothing of that.

MAJOR JONES: And that that regiment also burned down Stanitchnoye?

HAUSER: No, that I do not know.

MAJOR JONES: And that it burned down Yefrenovka, murdering the civilian population, in the spring of 1943, near Kharkov?

HAUSER: I do not know that and I cannot believe it either, because the fighting at that time did not give enough time for tasks other than military tasks.

MAJOR JONES: Fighting did not give your troops time to burn down villages as they went through—are you saying that? That was one of the outstanding characteristics of your form of warfare on the Eastern Front, wasn't it?

HAUSER: No, I deny that. The conception of "scorched earth" was not created by us. If villages went up in flames during the fighting, that is often unavoidable. I do not believe that the villages were set on fire intentionally because it was in the interest of the operations we were carrying out that these villages be retaken.

MAJOR JONES: It was because of incidents like those burnings that Himmler was telling the officers of your three SS divisions of the terrible reputation they had created, wasn't it? Those were typical instances of your forms of warfare on the Eastern Front, weren't they?

HAUSER: No, Heinrich Himmler did not say anything about that in that speech. He mentioned the terror, which I personally rejected.

MAJOR JONES: The Reich Division, when was that under your command?

HAUSER: The Reich Division was under my command at the same time, from the end of January 1943 until August of the same year.

MAJOR JONES: Did you command it subsequently at all, as corps commander or army commander?

HAUSER: Only afterward, when I was commanding an army, did the division come under my command again, in Normandy.

MAJOR JONES: Did you receive any reports of the numerous murders and burnings of villages that the Das Reich Division was responsible for in France in the month of June 1944?

HAUSER: I know from the Indictment the accusation that in southern France, during the fight against the De Gaulle army, there was fighting during which villages had been set on fire. At that time the division was not yet under my command. I was still in the East. I learned of these events only here during my captivity.

MAJOR JONES: I am referring not to villages burned during action, but villages burned as punitive measures by units of your Waffen-SS division. Did you never hear reports of those incidents?

HAUSER: I have heard of this one case in southern France only here in the Indictment.

MAJOR JONES: In June 1944, for instance, the Panzer Grenadier Regiment 3 burned the village of St. Germain-de-Belair. You know nothing of that?

HAUSER: No, at the moment I do not know.

MAJOR JONES: And Oradour-sur-Glane? It was the Reich Division that was responsible for that atrocity, wasn't it, when 793 men, women, and children were deliberately murdered? You never heard of the atrocities of Oradour-sur-Glane performed by the Reich Division when it was a component part of your corps?

HAUSER: I have heard this name and the accusation here, during my captivity, from the Indictment. Before that I had no knowledge of it. It apparently concerns an individual company belonging to that division, which was put into action through local orders of the field Kommandantur.

MAJOR JONES: The Panzer Grenadier Regiment, was that not under your command?

HAUSER: No, at that time it was not yet under my command because I only returned to France from the East at the end of June.

MAJOR JONES: That was characteristic use of the units of Waffen-SS for these terror purposes then, was it not—the very point I have been putting to you for many minutes through this cross-examination?

HAUSER: I have repeatedly expressed that it was not a typical characteristic of this division.

MAJOR JONES: The Death's-Head Division, when did you command that?

HAUSER: The Death's-Head Division, too, was under my command at the same time, from the end of January 1943 until August 1943.

MAJOR JONES: Did you know that the 1st Regiment, the 7th Company of a detachment belonging to the Totenkopf Division, had in Warsaw murdered about 45,000 Jewish men, women, and children? Didn't you hear of that?

HAUSER: In what year was that supposed to have happened?

MAJOR JONES: In the year 1943, when you were commanding the corps to which this division belonged, the Totenkopf Division, with the great tradition of murders in concentration camps.

HAUSER: The division as such came under my command not during the fighting at Warsaw but at Kharkov. That is apparently again a confusion between the men and the guard units of the concentration camps.

MAJOR JONES: Did you know that the 1st Regiment, the 7th Company of the Totenkopf Division, had shot 40 Russian prisoners of war near Kharkov in August 1943, for instance?

HAUSER: No; in August 1943 the Totenkopf Division was no longer near Kharkov. It was further south at the Mius River.

MAJOR JONES: Would that be a convenient time to adjourn? I have only a few more questions to put to this witness.

[The Tribunal recessed until 1400 hours.]

Afternoon Session

MAJOR JONES: Witness, did you know that the Prinz Eugen Division had been responsible for the massacre at Lidice in June 1942?

HAUSER: I did not understand the name of the place.

MAJOR JONES: It is a very famous place, Lidice, L-i-d-i-c-e.

HAUSER: No, I already left the division in the year 1941 and had nothing to do with it after that time. I heard nothing about this.

MAJOR JONES: Did you hear the name today for the first time?

HAUSER: Yes, I rather think so.

MAJOR JONES: Oh, the whole world knows of the massacre of Lidice. Are you saying seriously to the Court you never heard of it? You have admitted that the Prinz Eugen Division was an SS division, have you not?

HAUSER: Yes.

MAJOR JONES: I want you to look at Document D-944, to be Exhibit GB-566, because you have said that units of the Waffen-SS did not set fire to villages or commit atrocities against the inhabitants. This is a statement from the Yugoslav commission for ascertaining war crimes, taken from a member of the SS, Leander Holtzer; and he declares:

> "In August 1943 the 23rd Company under the command of company leader Untersturmbannführer Schuh set fire to a village on the railway line Jablanica-Prozor by order of the battalion commander, Obersturmbannführer Wagner. The inhabitants of the village were shot in the meantime.
>
> "In August 1943, on the orders of the same person, the 23rd Company set fire to a village on the railway line Niksic-Avtovac; and the inhabitants of the village were shot. The order for the shooting came from Jablanica and the villages were burned down already in the morning. The shootings in Pancevo were carried out by the police agent Gross, former master dyer, and Brunn, a former master miller from the SS Division Prinz Eugen, from Pancevo. The latter received a reward of 20,000 dinars for the hangings at the cemetery."

Did you know members of the Waffen-SS were from time to time employed for hanging prisoners?

HAUSER: It is striking that this company was called the 23rd. We had no numbering of this sort. Besides, I cannot tell you anything about it since I never commanded this division. The Prinz Eugen Division included many racial Germans from the Balkans, and the first commander, Fritsch, also was a "Volksdeutscher." I

believe that the war in the Balkans bore, on both sides, a different aspect from that found elsewhere.

MAJOR JONES: Now, finally, I want to deal with the unity of the SS organization. I suggest to you that the Waffen-SS, the Allgemeine SS, the SD, and the Police branches of the SS formed one great unit of the Nazi State. Do you agree with that?

HAUSER: No. I stated again and again that this apparent unity did not exist; that we had no connection with the Allgemeine SS nor with the SD, but were independent under the command of the Army. Only small details of the Waffen-SS were assigned to tasks in the rear areas under the command of the Higher SS and Police Leader. And that seems also to have applied in Warsaw, where the rear formations of the cavalry brigade . . .

MAJOR JONES: For the purposes of discipline and promotion, the Waffen-SS came under Himmler, did it not?

HAUSER: Only in juridical matters. In the first instance the divisional commander had the jurisdiction, but sentences beyond a fixed maximum were subject to Himmler's confirmation.

MAJOR JONES: Listen to what the leader of the SS, Himmler, says about the unity of his own organization, this armed SS. This is when he was addressing the officers of the SS Leibstandarte of Adolf Hitler:

"This Waffen-SS will live only if our entire SS lives, if the entire corps is actually an order which lives according to its inherent laws and realizes that one part cannot exist without the other. One cannot imagine you without the Allgemeine SS; and the latter cannot be imagined without you. The Police is not to be imagined without the SS, nor can we be imagined without the executive of the State, which is in our hands."

That is an extract from Document 1918-PS.

Then he said again in 1943:

"It must be so and it must so come about that this SS organization with all its branches, the Allgemeine SS, which is the common basis of all of them, the Waffen-SS, and the Order Police, the Sipo, with the whole economic administration, schooling, ideological training, the whole question of kindred, is one bloc, one body, one organization, even under the tenth Reichsführer SS."

That is from Document 1919-PS. Is not that a true picture of the SS?

HAUSER: He does not say it was so, he says it must be so and it should be so, because he knew that unity did not exist.

MAJOR JONES: Then finally I want to put to you Hitler's ideas about the Waffen-SS. This is Document D-665, Exhibit GB-280, which I referred to this morning.

THE PRESIDENT: You didn't give us the number for that document which you said took place in 1943.

MAJOR JONES: That is the famous 1919-PS, My Lord, Exhibit USA-170.

[Turning to the witness.] These are Hitler's ideas on the Waffen-SS. He says that the Greater German Reich in its final form would not include within its structure anything but national entities who are right from the beginning well-disposed toward the Reich:

"It is therefore necessary to maintain beyond the core of the Reich a State military police capable of representing and imposing the authority of the Reich at home in any situation."

Then he goes on:

"Having returned home in the ranks of the Army after having proved their worth in the field, the units of the Waffen-SS will have the authority to execute their tasks as 'State Police'..."

That again is a picture of the unity of the SS by the leader of the Nazi State. Are you saying that he was wrong and that you were right in this matter?

HAUSER: No, those are his ideas for the future, ideas which had not yet been realized, but which he intended to have realized after the war.

MAJOR JONES: I have no further questions.

MR. COUNSELLOR SMIRNOV: Mr. President, I would like to put only a very few questions to this witness, as supplement to the detailed cross-examination which was conducted by my honorable British colleague. I am submitting to the Tribunal as Exhibit USSR-520 the report...

THE PRESIDENT: Have you fresh matters to go into or fresh documents to put in?

MR. COUNSELLOR SMIRNOV: I have a few fresh documents which I would like to submit, and in connection therewith I have a few questions to put to the witness—only three or four questions.

I am submitting to the Tribunal as Document USSR-520 a summarized statement of the Yugoslav State Commission, which deals especially with the actions of the SS Mountain Division Prinz Eugen. Mr. Elwyn Jones has already quoted documents referring to this division. This is a very explicit document.

I would like the witness to pay attention to Pages 3, 4, and 5 of the document; that is a list of the persons annihilated during one

single action. These are not only the names of single persons but the names of the families which were killed by this division. Now I would like the witness to follow me while I am reading two paragraphs from this voluminous document. I quote Page 5 of the Russian text:

"After the murder had been carried out, these SS troops went in the direction of the villages of Srijane, Bisko, Gornji-Dolec, and Putisic in order to continue there mass murder and arson . . ."

THE PRESIDENT: Can you tell us which page it is in the English?

MR. COUNSELLOR SMIRNOV: Page 6, Mr. President, Page 6. It is the fourth paragraph from the end of the document, from the last paragraph. May I continue?

THE PRESIDENT: Yes.

MR. COUNSELLOR SMIRNOV: "After the murder had been carried out, these SS troops went in the direction of the villages of Srijane, Bisko, Gornji-Dolec, and Putisic in order to continue there mass murder and arson. All the cattle they found in the burned-down villages they took with them.

"The entire series of these crimes, which were committed in March 1944 in the district of Split, stands out distinctly because it is the climax of a brutal cynicism, which till now was unknown in the history of criminality. The criminals locked up women and children in stables filled with hay and straw, delivered speeches to them, and thereafter burned them alive."

I am asking you, Witness, are not these heinous crimes against humanity in sharp contradiction to your description of the Waffen-SS?

HAUSER: Of both these paragraphs I can only say that Split is situated in the Balkans. More than that, I do not know. I do not know which units are meant here. I cannot comment on the document at all.

MR. COUNSELLOR SMIRNOV: I want to submit to you another document, a statement by one of your old acquaintances. I think you will remember the name, August Schmidthuber. Do you remember the name of this general?

HAUSER: Yes, I know that name.

MR. COUNSELLOR SMIRNOV: Maybe you will recall that he commanded a battalion of the Division Das Reich in the period when you were the commander of that division.

HAUSER: He was in the division before I commanded it, and that is why I remember him, but later on he served in the Balkans for a long time.

MR. COUNSELLOR SMIRNOV: I would like to quote only one sentence from the statement of this major general of the Waffen-SS. You will be shown this passage at once; I submitted the original to the Tribunal. Please listen to this paragraph, Page 3 of the Russian text:

"A war correspondent told me that the commander of my 1st battalion, Kasserer, had a large number of citizens locked up in a church in Krivaya Rekà"—I emphasize "in a church"—"and then ordered the church to be blown up. I do not know how many persons perished."

Do you consider this action as a very serious crime against humanity or not?

HAUSER: This appears to be hearsay evidence; it is not the testimony of an eye witness.

MR. COUNSELLOR SMIRNOV: No, this is the statement of a division commander, who speaks about the official report of a war correspondent. It is the report of a general of the Waffen-SS, a firsthand statement and not hearsay.

HAUSER: But this is the statement of a war correspondent who is supposed to have heard it from a battalion commander. But I cannot comment on this, because I was not there and this division was never under my command.

MR. COUNSELLOR SMIRNOV: Well, perhaps you can comment on another document. I would like to show you Document USSR-513. Did I understand you correctly yesterday when you asserted that the SS troops did not murder hostages?

HAUSER: Yes, and moreover I think I said that the divisions which were under my command did not even take hostages.

MR. COUNSELLOR SMIRNOV: I will read three sentences only of a proclamation by SS Sturmbannführer Breimeier, who was commanding a battalion of the Prinz Eugen Division. Please follow me:

"On 3 November 1943, around 2000 hours, a German soldier on the Velika Street in Sinj was ambushed and killed. Since, despite all efforts, the culprit has not been found and the population has not supported us in this matter, 24 civilians will be shot and one hanged. The sentence will be carried out on 5 November 1943 at 0530 hours."—Signed—"Breimeier, SS Sturmbannführer and Battalion Commander."

I omit what follows; it is of no importance. Is this not a typical example of hostage shooting carried out by the Waffen-SS?

HAUSER: I hear the name Breimeier for the first time. I do not know whether he held a court-martial beforehand. If this account here is correct, then he was not entitled to do this.

MR. COUNSELLOR SMIRNOV: Very well. Perhaps I will succeed in convincing you by photographic evidence—Photograph Number 7, with the two heads cut off.

With the permission of the Tribunal I will read a brief extract from the report of the State Commission of Yugoslavia. The original, which we have certified, will be submitted to the Tribunal. It is now being submitted to the witness. Will you listen under what conditions these persons were beheaded:

"On 9 June 1944 and on the following days the SS troops from Trieste committed atrocities and crimes against the Slovene population in the Slovene coastal area, as we have already stated above . . ."

I omit the next two sentences, which are cumulative.

"On that day Hitler's criminals captured two soldiers of the Yugoslav Liberation Army and the Slovene partisan battalions. They brought them to Razorie, where they mutilated their faces with bayonets, put out their eyes and then asked them if they could see their comrade Tito now. Thereupon they called the peasants together and beheaded the two victims before Sedej's house. They then placed the heads on a table. Later, after a battle, the photographs were found on a fallen German. From this it can be seen that they confirm the above-described incident, namely the crime of bloodthirsty German executioners in Razorie."

Do you not consider these acts typical crimes against humanity?

HAUSER: If they were perpetrated by men of the Waffen-SS, they would be crimes, but that is not proved here, and moreover the deeds of only one of 35 divisions in the Balkans would then be generalized as typical of the whole corps of the Waffen-SS.

MR. COUNSELLOR SMIRNOV: Then I will show you an original German document, which is Document USSR-133 and which is a letter of information from the German High Command to the Italian High Command. I will quote only two sentences. You stated yesterday that the Waffen-SS did not kill prisoners. Did I understand you correctly?

HAUSER: Yes.

MR. COUNSELLOR SMIRNOV: I will then ask you to listen to two sentences quoted from a German document. First, at the beginning of the page:

"The western group of the SS division is near Ripac in front of barricades, which are being removed."

I omit two sentences, and continue:

"As a result of the successful engagement, 23 dead and 34 wounded and more than 100 enemy dead have been counted, 47 prisoners shot"—please pay attention to these three words—"47 prisoners shot, and 363 provisionally apprehended."

Do you not think that when a letter of information from one command to another officially mentions executions of prisoners of war, these proceedings practiced by the Waffen-SS are very cruel indeed?

HAUSER: This is the report of a first lieutenant on crimes which an SS detachment is supposed to have committed—without giving details of the unit to which this detachment belonged. I cannot comment on this.

MR. COUNSELLOR SMIRNOV: I believe that the number of 47 soldiers shot is concrete evidence. Are you of a different opinion?

HAUSER: I have no proof that men of the Waffen-SS did this.

MR. COUNSELLOR SMIRNOV: Then please answer a few other questions. Do you know where the 3rd SS Tank Corps was engaged in the territory of the U.S.S.R?

HAUSER: The 3rd Tank Corps? The 3rd? Is that a corps, a Panzer corps? I believe it was used in the southern sector.

MR. COUNSELLOR SMIRNOV: No, it was engaged in Estonia. Do you know General Steiner?

HAUSER: Yes, the commanding general was General Steiner.

MR. COUNSELLOR SMIRNOV: Do you know where the Totenkopf Division was engaged?

HAUSER: Yes, we discussed that today already.

MR. COUNSELLOR SMIRNOV: It was engaged at Demyansk, Pavlovsk, and other districts of the Novgorod region, is that not right?

HAUSER: Did you say Demyansk? Did I hear that correctly?

MR. COUNSELLOR SMIRNOV: Yes.

HAUSER: Yes, one division was there.

MR. COUNSELLOR SMIRNOV: That division was commanded by Major General Eicke, is that not right?

HAUSER: Eicke? Eicke; yes, indeed.

MR. COUNSELLOR SMIRNOV: Do you know where the Adolf Hitler Division was engaged?

HAUSER: Do you mean at the time when the Totenkopf Division was at Demyansk? I believe it was also in the southern sector at Demyansk—I believe that was in 1942 or 1941.

MR. COUNSELLOR SMIRNOV: Quite right. This division was commanded by General Simon, is that not right?

HAUSER: Simon was the successor of Eicke, yes. That is the same division.

MR. COUNSELLOR SMIRNOV: All right. Then will you tell me, when did Obergruppenführer Dietrich command the Adolf Hitler Division? Was that later?

HAUSER: No, he was in command until the summer of 1943.

MR. COUNSELLOR SMIRNOV: Do you know where the 134th SS Division was engaged?

HAUSER: We did not have such high numbers.

MR. COUNSELLOR SMIRNOV: And the 97th SS Division, Golden Lily?

HAUSER: That did not exist, either. We had at the most 35 to 40 divisions . . .

MR. COUNSELLOR SMIRNOV: But the Golden Lily was an SS division. Is that right?

HAUSER: I hear that name for the first time. What is the name?

MR. COUNSELLOR SMIRNOV: Golden Lily.

HAUSER: No, that is entirely new to me.

MR. COUNSELLOR SMIRNOV: And, the Storm Brigade Langemarck—did you ever hear of that name or not?

HAUSER: There was a Battalion Langemarck which must also have been a part of the 3rd German Panzer Corps.

MR. COUNSELLOR SMIRNOV: Do you know Sturmbannführer Sehling?

HAUSER: I did not understand the name.

MR. COUNSELLOR SMIRNOV: Sehling.

HAUSER: No. No, I do not know him.

MR. COUNSELLOR SMIRNOV: And do you know Lieutenant General Lüneberg?

HAUSER: Lingeberg, yes.

MR. COUNSELLOR SMIRNOV: No, Lüneberg.

HAUSER: Oh yes; he was the commander of the SS Police Division.

MR. COUNSELLOR SMIRNOV: Quite right, it is the name of an SS Police Leader.

HAUSER: Yes, General Lüneberg was the commanding officer of the SS Police Division.

MR. COUNSELLOR SMIRNOV: That is correct. Thank you.

Mr. President, I am submitting to the Tribunal a document of the Extraordinary State Commission about the activities of the Waffen-SS troops against the civilian population and prisoners of war in the occupied territories. This report was compiled on the basis of evidence which had been submitted by the Extraordinary State Commission. It is signed by the responsible secretary of the Extraordinary State Commission, Bogoiavlensky, and is sealed. This report might aid the Tribunal in its examination of the material already submitted by the Extraordinary State Commission.

THE PRESIDENT: Have you, Colonel Smirnov, the original of this document?

MR. COUNSELLOR SMIRNOV: Yes, Mr. President.

THE PRESIDENT: May I see it?

MR. COUNSELLOR SMIRNOV: Yes.

THE PRESIDENT: Colonel Smirnov, have you put in yet the report of the Extraordinary Commission?

MR. COUNSELLOR SMIRNOV: Yes, Mr. President. A series of reports by the Extraordinary State Commission has been submitted, reports about the Estonian S.S.R., about Kiev, Kharkov, *et cetera.* This document is a summary of the material which has already been submitted.

THE PRESIDENT: Colonel Smirnov, does this document consist of extracts from the Extraordinary Commission's report?

MR. COUNSELLOR SMIRNOV: No, Mr. President. Strictly speaking, it is only a detailed list of the various military units engaged in different regions of the U.S.S.R. They are not extracts from the report of the Extraordinary State Commission, but a list of separate units or SS detachments engaged in the different areas. Mostly these are the facts which serve as evidence in judging individual units. They are all mentioned in the reports of the Extraordinary State Commission which we have already put in.

THE PRESIDENT: Colonel Smirnov, I think the Tribunal appreciates that you have done this for the convenience of the Tribunal, that this document has been prepared for the convenience of the Tribunal, but the Tribunal thinks they had better refer only to the

report of the Extraordinary Commission itself which has already been offered in evidence.

MR. COUNSELLOR SMIRNOV: Yes, Mr. President. I have no further questions to put to the witness.

THE PRESIDENT: Witness, what unit were you commanding at the time war against Russia broke out?

HAUSER: At the beginning of the campaign against Russia I was commander of the Division Das Reich.

THE PRESIDENT: Das Reich? Where was that division stationed at the outbreak of the war?

HAUSER: It was in action in the middle sector of the Eastern Front.

THE PRESIDENT: The middle sector of the Eastern Front? Was it employed in the original attack upon the Soviet Union?

HAUSER: The attack was west of the Beresina, and south of Brest-Litovsk. However, the division was not deployed there, it was brought up later.

THE PRESIDENT: You mean it was not deployed there upon the first day?

HAUSER: No, it was brought up as a rear echelon unit.

THE PRESIDENT: How long after the attack opened?

HAUSER: Yes, several divisions were drawn up at the penetration points, one behind the other, for the motorized divisions could advance on good roads only.

THE PRESIDENT: I asked how long after the attack opened was your division deployed?

HAUSER: Only 2 to 3 days after the outbreak of hostilities.

THE PRESIDENT: And are you telling the Tribunal that at that time or about that time you never heard of the order to kill commissars?

HAUSER: I have already testified that we did not receive this order regarding the commissars and that the division did not act according to it. I know only that later on we received an order for the "separation" of the commissars, and I have already stated that the troops had very little to do with this matter, since the commissars were not recognized by the troops.

THE PRESIDENT: You say you did not receive the order. What I asked you was: Did you hear of the order?

HAUSER: When the second order arrived concerning the "separation," I believe I heard that a previous order had gone out, but that the High Command had not transmitted it to many offices.

THE PRESIDENT: This order to kill the commissars?

HAUSER: That first order, of which I spoke, we did not receive.

THE PRESIDENT: Now, when you received the second order, you said you had heard of the other order, and what I wanted to know is if the other order was the order to kill the commissars?

HAUSER: I did not quite understand the question.

THE PRESIDENT: You said you received a second order to separate the commissars, and at that time you heard of the first order. What was the first order?

HAUSER: I believe that I heard of the first order to kill the commissars, but only later, when the other order for the "separation" had already come through.

THE PRESIDENT: The witness can retire now.

HERR PELCKMANN: May I have another word, Your Honor?

THE PRESIDENT: Yes, certainly. I thought you were through.

HERR PELCKMANN: In the course of the cross-examination of this witness the British and the Russian Prosecution submitted, as far as I was able to judge, 20 to 30 completely new documents. Not all of these documents were used in the questioning of this witness.

THE PRESIDENT: Dr. Pelckmann, the purpose of re-examination is to ask questions and not to argue.

HERR PELCKMANN: I am not going to do that, Mr. President. I shall not put any questions dealing with these documents to which I shall return later. But the Prosecution did not put any questions either, and I am of the opinion that these documents cannot be used. One document is in the Polish language, and unfortunately I cannot read it and therefore cannot put questions on it. Witness, I should like to refer you, as an example, to a poster in a document in English, entitled *German Crimes in Poland,* and comprising 184 pages. Will you please read the poster and will you tell me what connection it has with the Waffen-SS, and if possible tell the High Tribunal the page on which it is found.

HAUSER: This poster, after Page 184, contains an announcement of the SS and Police Leader. It is therefore an instrument of the Higher SS and Police Leader and, as I have stated repeatedly, has nothing whatever to do with the Waffen-SS.

HERR PELCKMANN: Now I am having submitted to you another document, Document 4039-PS, a document about which you were not questioned by the Prosecution. Please tell me what connection this document has with the Waffen-SS?

HAUSER: This is an announcement of the chief of the Warsaw district—that is an official subordinate to the Governor General—which has no connection with the Waffen-SS.

HERR PELCKMANN: Is there nothing mentioned about the Waffen-SS in this document?

HAUSER: It says here only that the German Wehrmacht . . .

HERR PELCKMANN: Please speak clearly. I was asking you whether the document contains anything at all about the Waffen-SS?

HAUSER: I am sorry I have to say "No." There is nothing about the Waffen-SS in this document.

HERR PELCKMANN: I should like further to show you Document 4038-PS. This document was also not submitted to you by the Prosecution. Please read it carefully and then tell me what connection it has with the Waffen-SS.

THE PRESIDENT: What number is that?

HERR PELCKMANN: It is 4038-PS, Your Lordship.

HAUSER: This also is an announcement by the chief of the Warsaw district who was subordinate to the Governor General and has no connection with the Waffen-SS.

HERR PELCKMANN: I should further like to submit Document D-954, or the figure might be 957, it is not quite clear. This is an interrogation of 27 May 1946 of the witness . . .

THE PRESIDENT: Dr. Pelckmann, I think all these documents speak for themselves, and if they don't refer to the Waffen-SS, the Tribunal will take note of that fact.

HERR PELCKMANN: Yes, Mr. President. But then I should like to know just why these documents were submitted. May I respectfully say that they are not relevant at all. As you suggest, Mr. President, I shall not submit this document.

Can you judge, Witness, whether this book, D-956, which you had in your hands, contains anything at all about the Waffen-SS?

HAUSER: I looked at it only briefly, but I could not establish any connection.

HERR PELCKMANN: Thank you.

You were reminded, Witness, of the speech of Himmler at Kharkov. You said that Himmler's idea that terror had been of use to the troops was wrong. Did you express your view about this to Himmler, and if so, in what way?

HAUSER: I made my view known to Himmler on the same day and, as is customary with military subordinates, I spoke to him alone.

HERR PELCKMANN: The SS Division Prinz Eugen was mentioned. How many divisions of the Waffen-SS were there?

HAUSER: To my knowledge, there were more than 35 divisions. I believe there were even more, but they did not all exist at the same time. One of these divisions was the Division Prinz Eugen, of which I have already said that it contained many racial Germans in its ranks.

HERR PELCKMANN: Is it true that Serbs and Croats also served in this division?

HAUSER: I cannot give you any particulars on that point. We had several divisions in the Balkans which contained Croats, Montenegrins, and Moslems.

HERR PELCKMANN: Do you know that the war in the Balkans was waged with particular intensity on both sides, and were atrocities by the other side ever reported to you? I am not asking this to ascertain whether the other side committed atrocities; I am asking only to determine that on the basis of isolated atrocities, one cannot draw conclusions about a system of the enemy.

HAUSER: I had no personal insight into the campaign in the Balkans. But from history I know that even before the first World War such excesses did take place in the Balkans.

HERR PELCKMANN: Do you know through reports from the Eastern Front—and again I want to qualify the question to make my intention quite clear . . .

THE PRESIDENT: Dr. Pelckmann, the witness has already told us that he knows nothing about the war in the Balkans, and therefore any questions you put to him will have no significance to us.

HERR PELCKMANN: Witness, do you understand that I am now asking you about the Eastern Front?

HAUSER: Yes, incidents of that type did take place. And reports of them were collected at headquarters and were forwarded, I believe, through the OKH and, I think, by the Red Cross at Geneva; but I cannot give you particulars.

HERR PELCKMANN: Do you know that reports of that sort were collected?

HAUSER: Yes.

HERR PELCKMANN: And would you conclude therefrom that the Red Army did things like that systematically?

HAUSER: You can hardly expect me to state whether these things were done systematically or not.

GEN. RUDENKO: Mr. President, I would like to make the following brief statement. The Defense has in the course of the proceedings tried more than once on the basis of inventions published in Fascist *White Books* to draw attention to atrocities committed by the opponent. This practice has already been categorically rejected by the Tribunal and I therefore consider that the question now put by the defendant's counsel is also inadmissible.

THE PRESIDENT: Dr. Pelckmann, the Tribunal considers that you have no right to ask this witness for his opinion about these matters. You must confine yourself to asking him questions as to facts, and what he knows about facts. And you can make any argument about those facts that you like when you come to make your argument.

HERR PELCKMANN: Witness, in order to clarify the meaning of my previous question, I should like to ask you this: If you could now see the deeds which allegedly on the basis of these documents were committed by the SS, would you, nevertheless, say that these things were not representative of a system but were isolated incidents arising out of the severity of the battle, and caused partly by the lack of discipline on the part of certain foreign elements, incidents which for these reasons could happen everywhere?

THE PRESIDENT: You should not begin by asking the witness for his opinion. He has already given it to us, you know; he has already said, when he was being cross-examined about those incidents in which the Waffen-SS took part, that they were individual instances. He has already said that.

HERR PELCKMANN: *[Turning to the witness.]* You have seen the document which says that hostages were shot and a Yugoslav was hanged. If you had received knowledge of a case like that among your troops, would you have taken any steps?

HAUSER: A case like that falls in the first instance under the jurisdiction of the divisional commander as the judicial authority. If I, as the commanding general, would have received reports like that, I would have taken steps, and I would have appointed a military court to deal with the case. And that indeed is what happened several times.

HERR PELCKMANN: You were asked about the case of Oradour in France. Do you know whether your units, that is, when they were under your command, participated in this crime?

HAUSER: I know this incident only from the Indictment, and I have no further knowledge of it. Apparently, it was a criminal act of a single company leader. It took place at an earlier date. If it had been brought to my knowledge and if the division commander

had been subordinate to me, I would have given him the order to appoint a military court to try the case.

HERR PELCKMANN: Your unit was used in Normandy; is that correct?

HAUSER: Yes, but Oradour is not in Normandy.

HERR PELCKMANN: It is in southern France? Was your unit, while it was under your command, responsible for it?

HAUSER: No, neither the unit nor I.

HERR PELCKMANN: The Prosecution has confronted you with quotations from Document 1919-PS, Exhibit USA-170.

[Turning to the Tribunal.] I should be very grateful if this document could be put at my disposal so that I could show it to the witness. I think that without seeing the whole of the document, the witness cannot give a comprehensive reply.

[A document was handed to Herr Pelckmann.]

[Turning to the witness.] This is the order given by Himmler or by Hitler about the future tasks of the SS. I cannot show it to you, because it is in English. But I shall quote the following from this document:

> "The Greater German Reich in its final form will not within its boundaries contain only racial units which are from the beginning well-disposed to the Reich. But in our Reich of the future, police troops will be in possession of the necessary authority only if . . ."

Please describe this order, on the basis of what you know of it, and tell us to what, and to what period of time these statements actually refer.

HAUSER: I know this order only through oral information. It was transmitted to the military commands apparently in order to assuage their misgivings about the growth of the Waffen-SS. The order refers only to the future. It speaks of the Greater German Reich as the Reich of the future. But naturally what in particular Hitler meant by this is beyond my knowledge.

HERR PELCKMANN: This directive seems to indicate that the Waffen-SS was to receive police tasks in the future. Was that the basic principle of the Waffen-SS during the war?

HAUSER: No. I must deny that. Perhaps Hitler at the time thought of something like the military boundary which used to exist in Austria; the men worked there, and in emergencies formed the border defense unit.

HERR PELCKMANN: In your questioning by the Russian prosecutor, one particular unit was mentioned from a list of alleged

crimes committed by Waffen-SS units, and you were asked whether you knew the commander, General Steiner. You answered "yes" to that question?

HAUSER: Yes.

HERR PELCKMANN: I want to read an affidavit, one of the affidavits which I shall submit later on. This is Affidavit Number SS-1, which shows what strict views this Lieutenant General Steiner had on the discipline of his troops. I quote from the middle of this affidavit:

"Our attention had been called to an alleged spy."—says Walter Kalweit, who signed the affidavit—"We tried to open the door of the neighboring house, but were unsuccessful. Thereupon we broke a window, entered the house, and searched it thoroughly, without, however, finding a Soviet spy. Since we were forced to realize that we had made a mistake, we left the house by the way in which we had entered it, and regretted very much having broken a window pane.

"Two hours later, two Oberscharführer of the field police force of the divisional staff 'Wiking' arrested us. On the way to the divisional court, we asked the policemen the reason for our arrest. They replied that the Ukrainian woman, owner of the house which we had searched, had complained to the divisional staff on account of the broken window pane, and that the commander of the division, General Steiner, had decreed an immediate strict investigation of this case before the divisional court, and Ernst Gugl and I were interrogated singly by a judge holding the rank of Hauptsturmführer.

"The judge said to me that an order of the day of General Steiner had instructed members of the SS Division Wiking that it was their duty to behave decently toward the Ukrainian civilian population. My comrade Gugl and I had violated this order, since without permission or instruction we had forced our way into a Ukrainian home by destroying a window pane."

I omit a few sentences.

"After the case had thus been cleared up, the judicial officer drew up a record of the interrogation and charged me with taking it to General Steiner's orderly officer, Hauptsturmführer Von Schalburg, who commented on the report as follows—these were his words:

" 'It is a good thing that your behavior was clean; otherwise you could have counted on severe punishment. General Steiner charged me with reporting to him personally the

result of the investigation, and I am happy that I do not have to give him bad reports about his Wiking men . . . Tell all your comrades that the Wiking Division is fighting chivalrously and clean.' "

After hearing this example, Witness, can you confirm, first, that this was the basic attitude of General Steiner and of his troops, and second, that it was the basic attitude of the Waffen-SS, both at the front and in the rear zones.

HAUSER: Steiner was one of the first commanders who under my orders helped to build up the Verfügungstruppe. I know he maintained strict discipline. Whether it was necessary to have judicial proceedings on account of a window pane may be doubtful. However this is the conception adopted by the old leaders of Verfügungstruppe right from the beginning of the Waffen-SS.

HERR PELCKMANN: I am sorry, Mr. President, there are so many documents. I am just searching for a last one which I wanted to make the subject of my re-examination.

Of the numerous affidavits submitted by the British Prosecution, one was deposed by Dr. Stanislaw Piotrowski on 29 July 1946 here in Nuremberg. May I request that this witness be called for cross-examination before the Tribunal? It is obvious that the witness is present here and no reason therefore exists why we should be satisfied with an affidavit.

THE PRESIDENT: What is the number of the document?

HERR PELCKMANN: The number is D-939, Your Lordship.

THE PRESIDENT: Dr. Pelckmann, hadn't you better finish with the witness first and then make your motion afterwards, if you want to make a motion about cross-examination?

HERR PELCKMANN: I have no further questions to put to this witness, Mr. President.

THE PRESIDENT: The witness can retire.

HERR PELCKMANN: I am sorry, Mr. President, I made a mistake. It is not Dr. Piotrowski; it is Izrael Eizenberg. That is the name of the witness.

THE PRESIDENT: D-939, it is?

HERR PELCKMANN: Yes.

M. SERGE FUSTER (Assistant Prosecutor for the French Republic): Mr. President, might I ask a question to make one point clear?

THE PRESIDENT: Well, it is very inconvenient to do it at this late stage. Why didn't you do it before?

M. FUSTER: It is not very important, My Lord. I will withdraw it.

THE PRESIDENT: Very well. The Tribunal will adjourn now.

[A recess was taken.]

THE PRESIDENT: Mr. Elwyn Jones, the Tribunal understands that the witness, who is . . .

MAJOR JONES: Izrael Eizenberg.

THE PRESIDENT: Yes. Is he present in Nuremberg?

MAJOR JONES: He is now in Stuttgart, My Lord, and is available to be called if the Tribunal thinks it is necessary.

THE PRESIDENT: Well, the Tribunal thinks, unless there is some particular objection, in view of the nature of the evidence, that possibly he ought to be called for cross-examination.

MAJOR JONES: The Prosecution has no objection to make at all, provided that we have additional time to get the witness here.

THE PRESIDENT: Well, then will you have him brought here as soon as possible?

MAJOR JONES: Yes, Your Lordship.

HERR PELCKMANN: I shall now call the witness Reinecke.

[The witness Reinecke took the stand.]

THE PRESIDENT: Will you state your full name, please?

GÜNTHER REINECKE (Witness): Günther Reinecke.

THE PRESIDENT: Will you repeat this oath after me—it is usual to hold your hand up when you are sworn. I swear by God—the Almighty and Omniscient—that I will speak the truth—and will withhold and add nothing.

[The witness repeated the oath.]

THE PRESIDENT: The witness may sit down.

HERR PELCKMANN: Witness, what positions did you hold in the SS?

REINECKE: I was an SS Oberführer, chief of department in the Amt "SS Courts," and Chief Judge of the Supreme SS and Police Court.

HERR PELCKMANN: Did you have legal training?

REINECKE: I had my legal training at the universities of Innsbruck and Munich. In 1931 I passed my first state examination and in 1934 I passed the second state examination which entitled me to occupy the position of a judge. In 1933 I became Doctor of Law at Munich.

HERR PELCKMANN: Did you or the other SS judges have any special training at all in special schools?

REINECKE: Neither I nor the other SS judges had special training at special schools. The SS judges came from positions in the legal profession and were before the war high-ranking legal personalities, public prosecutors, or lawyers, or some of them were transferred during the war from courts of the Wehrmacht to courts of the SS.

HERR PELCKMANN: Did you, on the strength of your activities, gain insight into the organization and the work of the units and groups which were headed by Himmler, and which one generally describes as the SS?

REINECKE: Yes. For nearly 10 years I worked in the legal field of the SS. In that sphere I had to deal extensively with the development, the organization, and the activity of the entire SS, the chief of which was Himmler. From that angle I gained very considerable insight and from that angle I can give my testimony here.

HERR PELCKMANN: According to the Prosecution, the SS infiltrated into the entire life of the State. In this connection, the Prosecution referred to the numerous offices and powerful positions which the so-called Reichsführer SS Himmler occupied. Is it true that the actions of the Reichsführer SS were, generally speaking, actions of the SS?

REINECKE: No. Heinrich Himmler united in himself a number of powerful positions in the Party and the State, and finally also in the Armed Forces. He was Reichsführer SS, Chief of the German Police, Reich Minister of the Interior . . .

HERR PELCKMANN: Please speak more slowly, Witness, these are difficult expressions.

REINECKE:. . . he was Reich Commissioner for the Preservation of German Nationality, Chief of the Replacements of the Armed Forces, Chief of the Prisoner-of-War Organization, and finally, commander-in-chief of two army groups. All these powerful positions had nothing to do with his post as Reichsführer SS. His nomination to these positions of power followed on orders from above, due to his personality, but not to the fact that he was Reichsführer SS. There is no connection between the SS and these positions of power which Himmler held.

In particular, certain powerful positions which Himmler held are emphasized in the Indictment as indicating that the SS was acting through his person. These were his positions as Reichsführer SS, Chief of the German Police, Reich Commissioner for the Preservation of German Nationality, and Chief of the Prisoner-of-War Organization.

HERR PELCKMANN: Do the tasks involved in these four positions form part of the activities of the SS as an organization?

REINECKE: No. Activities of the SS as an organization are only those in which Himmler, in his capacity as Reichsführer SS, is acting in connection with the SS. As Chief of the German Police he had been given a task which lay entirely in the sphere of the State. His position as Commissioner for the Preservation of German Nationality was entirely a matter of the Reich. And his position as Chief of the Prisoner-of-War Organization was entirely a duty of the Armed Forces.

HERR PELCKMANN: The wording of former German decrees which transferred these tasks to Himmler always referred to him as Reichsführer SS. What was the reason for that?

REINECKE: That is correct. Reichsführer SS was the first position held by Himmler at the beginning of his career. It is typical of the usage of language in the National Socialist Reich not to refer to a person by name but by title of his position. That usage can be found in numerous decrees, but it refers only to the person and not to the organizations with which the person's title may be connected. Many laws of economic-political content have references—to give an example—to Hermann Göring as Reich Marshal, but that did not mean that the German Air Force was active in an economic-political sphere.

HERR PELCKMANN: You have just mentioned organizations—plural—of the SS. As you know, your testimony before the Commission is already in the hands of the Tribunal, and in that testimony you said that one had to distinguish between five different and independent spheres of activity which the Prosecution wrongly summarized under the heading of "SS"; they are: General SS, Waffen-SS, SD, Police, and the concentration camp organization. What reasons do you offer for your statement that these were independent organizations? Will you start with the General SS?

REINECKE: The General SS was a formation of a political party and nothing else. It remained a formation of a political party until 1939, when it ceased to exist at the beginning of the war. At that time, 70 percent of the members of the General SS entered military service, mostly in the Wehrmacht, a smaller percentage in the Waffen-SS. But even the remaining 30 percent were nearly all drafted by the Wehrmacht in the course of the following war years, so that the General SS was practically disbanded during the war. At no time has the General SS been charged with duties of the State, and it was never active in the execution of such State duties. Its members were and remained civilians who only wore uniforms when on duty—namely, twice weekly, quite often on Sundays; their

duty consisted of standing guard at Party meetings, of attending sports or training.

HERR PELCKMANN: It is alleged by the Prosecution that the General SS was the backbone of the entire SS, which latter consisted of the General SS, Waffen-SS, Police, and concentration camp service; is that correct?

REINECKE: No, that is not correct, and it is in contradiction to the historical development of the General SS. Nor was the General SS the reservoir from which the other organizations which were mentioned drew their replacements. The General SS had either very loose or no connection at all to the other organizations named.

HERR PELCKMANN: Furthermore, the Prosecution stated that the General SS had not only infiltrated into the organizations of the State, but into the very machinery of the State; is that correct?

REINECKE: No, that again is not correct. It is correct—that is true—that high-ranking persons in the General SS were promoted to positions in the State, for instance to the positions of presidents of police. It is also correct that such persons came to occupy economic positions, directors of industrial enterprises and so on. But all these appointments were connected with the individuals nominated, not with the organization.

Might I draw attention to the fact that particularly the positions of the police presidents were, during the first years after 1933, mostly not at all occupied by members of the SS, but by members of the SA. On the contrary, in the course of time a development in the opposite direction is to be noted, insofar as the General SS was infiltrated by persons and organizations completely alien to the character of the SS. Himmler appointed people in positions in the State and economy to be honorary members of the SS without their being connected with the SS in any way. In 1936, for instance, the so-called Kyffhäuserbund, a union of veterans, was taken over into the SS by Himmler, but it had never before at any time had anything to do with the SS and it never became an organic entity of the General SS. The same applied in 1938. In that year Himmler suddenly awarded honorary ranks both to the Order Police and to the Security Police; both were given uniforms of the SS though they were entirely separate organizations with tasks quite different from those of the General SS.

HERR PELCKMANN: Were these persons to whom Himmler awarded ranks in the General SS the so-called honorary leaders?

REINECKE: Yes, these were the honorary leaders of the SS to whom I referred just now.

HERR PELCKMANN: Was it characteristic of the honorary leaders that they never did duty in the SS?

REINECKE: Yes, you are quite right. Due to the fact that they already occupied some position of importance, these honorary leaders were awarded ranks and with them the right to wear the uniform. But they themselves had never done a single day's duty in the General SS and even after their nomination they would have no contact at all with the members of the SS. That is what was generally understood by the title "honorary leader of the SS."

HERR PELCKMANN: Would it be correct to include—to mention a few names—the Defendants Hess, Ribbentrop, Neurath, Sauckel among such honorary leaders who had no official duty in connection with the General SS?

REINECKE: All the persons whom you have mentioned were typical honorary leaders in the SS, as I have described them.

HERR PELCKMANN: Did they have the power to issue orders?

REINECKE: When they were appointed to be honorary leaders they received only the right to wear the uniform as I have said. Their nomination did not bestow on them the power to issue orders.

HERR PELCKMANN: Now I want to deal with the Waffen-SS. Can you give any information on the Waffen-SS?

REINECKE: The Waffen-SS, from the beginning, was a self-contained independent organization, which it remained until the end of the war. The Waffen-SS originated in the so-called Verfügungstruppe. They were still loosely connected with the General SS, for members of the General SS volunteering for service in the Verfügungstruppe became recruits of the Verfügungstruppe. At the same time, the SS Verfügungstruppe was joined by German citizens of other organizations of the Party and other German citizens who were not connected with the Party at all. During the later development the connection, which had always been very loose, disappeared entirely.

The Waffen-SS is an independent organization, which is also shown by the fact that, for example, members of the General SS and members of the Party who were serving in the Waffen-SS lost their membership in the General SS and in the Party for the period of service. It is typical of this independence that even the highest leader in the General SS did not by any means join the Waffen-SS with the same rank which he held in the General SS, but that in the Waffen-SS he was treated exactly as any other citizen; in other words, he had to begin as a recruit. The difference and the proof for my assertion that the Waffen-SS was an independent organization are also evident from the fact that in the case of civil proceedings against members of the General SS, the NSDAP would appear on their behalf, whereas in civil proceedings against members of the Waffen-SS organization the German Reich would prosecute.

HERR PELCKMANN: Was there any connection between the General SS and the Waffen-SS on one side and the SD on the other?

REINECKE: No; no connection whatever existed. The Security Service developed into an intelligence organization which became an independent organization not later than 1934; as such it had nothing whatsoever to do with the General SS and the Waffen-SS except that Himmler was their joint chief.

HERR PELCKMANN: What was the relationship between the Waffen-SS or the General SS and the Police?

REINECKE: I believe that this question must certainly exclude the Waffen-SS. The Waffen-SS had a definitely military character and its activities were military; that is to say, it was at the front during the entire war. Therefore any connection to the Police could not possibly have been established. But even the General SS had no direct organizational contact with the Police. The Police was an instrument of the State and had state executive powers. The appointments, for example, of high-ranking officers of the General SS to the posts of Higher SS and Police Leader, again, do not point to any organic connection between the two organizations. The Higher SS and Police Leader had in that particular position no power to issue orders to the General SS unless he was at the same time the head of an Oberabschnitt of the General SS. On the other hand, he had no real power to issue orders to the Police either. Members of the Police have in fact, to stress the difference outwardly also, never at any time worn SS uniform. Similar relations existed between the General SS and the Waffen-SS on one side and the Security Police on the other. As I have already stated, in 1938 the Security Police quite suddenly received ranks in the SS and the right to wear the SS uniform. That, however, does not indicate that there was any organizational connection to the General SS. The Security Police received state executive powers; the chief of the General SS, on the other hand, never had such executive powers. He could not order arrests or confiscations nor could he carry out any other executive function. It was noticeable that at the beginning of the war and during the war the Security Police, wearing SS uniform, moved outwardly more and more into the foreground. This was the time when the members . . .

THE PRESIDENT: Dr. Pelckmann, is it possible that this evidence could have been given at greater length before the Commission? Did you hear what I said?

HERR PELCKMANN: Yes, Mr. President.

THE PRESIDENT: Don't you think you could shorten it?

HERR PELCKMANN: Yes, Mr. President. The witness has already come to the end of that particular part of his testimony.

THE PRESIDENT: You have been asked over and over again to shorten the evidence and you seem to me to be making no effort to do it.

HERR PELCKMANN: I thought it necessary to clear up the question of the Higher SS and Police Leaders with particular care, because it is extremely intricate even for us Germans.

[Turning to the witness.] What was the connection in the occupied territories between the Higher SS and Police Leaders and the General SS?

REINECKE: There was absolutely no connection at all, because in the occupied territories the General SS did not even exist. The General SS was an institution for German citizens and for that reason it did not exist in the occupied territories. The Higher SS and Police Leaders in the occupied territories fulfilled police functions only; they had no connections or ties with the General SS and could not have had such connections for the reasons which I have described.

HERR PELCKMANN: Why did the General SS not exist in the occupied territories?

REINECKE: As I have just said, the General SS was a formation of a political party, in which only German citizens were accepted. For that reason the General SS could not exist in the occupied territories.

HERR PELCKMANN: Is it correct, then, to say that acts or even crimes of the Higher SS and Police Leaders in the occupied territories could not incriminate the General SS at all?

REINECKE: That is absolutely correct.

HERR PELCKMANN: I should now like to take up the discussion of a document. I gave you the document during the recess, Witness, and perhaps you would be good enough to state the number of it to the High Tribunal. It is the document which was put to the witness Von Eberstein yesterday.

REINECKE: It is Document 4024-PS, and is the correspondence between the Higher SS and Police Leader in the operational zone of the Adriatic Coast, Globocznik, and Heinrich Himmler and Oswald Pohl.

HERR PELCKMANN: Is it possible for you to ascertain from the document in which capacity the author of these letters, Globocznik, was acting? Was he acting in his capacity as Higher SS and Police Leader in Trieste or—as far as I can remember—as Higher SS and Police Leader in Lublin?

REINECKE: The document shows quite clearly that Globocznik, in this case, was acting as SS and Police Leader in Lublin and not

as Higher SS and Police Leader, Adriatic Coast. This is actually contained in the document itself. I myself know from my own activity that at the end of 1943 or at the beginning of 1944, Globocznik was relieved of his post as SS and Police Leader in Lublin and was given the post of Higher SS and Police Leader, Adriatic Coast. The date of the document therefore appears to be wrong. The date of the document is 5 January 1943, but that must be an error; it should read 1944, as the letterhead shows.

HERR PELCKMANN: Do the activities described by Globocznik in this document implicate the General SS? That is to say, did Globocznik carry out the activities which he is describing in the capacity of leader of the General SS?

REINECKE: It is obvious from the document that Globocznik was acting in his capacity as SS and Police Leader, charged with a secret special task, the so-called "Aktion Reinhard." He is acting solely as police executive. Any connection between this activity and the organization of the General SS or any of its members does not exist in any way.

HERR PELCKMANN: Are you drawing your conclusion that this was a special order directly from Himmler from the fact that the report is addressed to Himmler directly and not, as it should have been, to the Higher SS and Police Leader at Kraków, Krüger?

REINECKE: That is quite true, but it is also apparent from other passages in this correspondence. The expression "special task" is clearly used in the correspondence; furthermore, the correspondence is headed "secret" and it also mentions that only four copies of this "secret" matter are in existence and that the document sent by Globocznik to Himmler is the original.

HERR PELCKMANN: You are still reading from Document 4024-PS?

REINECKE: Yes, that is the document I am reading.

HERR PELCKMANN: Would you look to the top of Page 3? I think that indicates quite clearly who was dealing with those matters, and on whose authority Globocznik was acting.

REINECKE: Page 3 of this document shows that the Aktion Reinhard was divided into four parts: (a) resettlement, (b) use of labor, (c) use of materials, (d) seizure of hidden values and real estate. It also shows that Globocznik was communicating with Oswald Pohl personally, as well as with Himmler, on this matter. Pohl was chief of the SS Economic and Administrative Main Office, which . . .

THE PRESIDENT: What is the point of all this evidence? We have the documents before us.

HERR PELCKMANN: This document was shown yesterday to the Higher SS and Police Leader in the Reich, Von Eberstein, in order to prove through Globocznik's action—and Globocznik's letterhead also reads "Higher SS and Police Leader," though he was active abroad—that the Higher SS and Police Leaders committed crimes, and further to prove that the General SS was also implicated in these crimes, because, according to the view of the Prosecution, which I am trying to prove wrong, the Higher SS and Police Leaders were simultaneously acting on behalf of the General SS. This witness Reinecke, since he was a high judge and thus able to have knowledge of the entire organization of the SS, is in a position to state whether this view, this assertion, of the Prosecution is correct . . .

THE PRESIDENT: Surely he can say so then without going all this time on this document. If he wanted to say whether Globocznik was acting on behalf of the SS or was not, why does he not say so and get done with it?

HERR PELCKMANN: After seeing the document and judging it on the basis of your knowledge of the organization of the SS, would you say that Globocznik was acting on behalf of the Waffen-SS or on its order, or on behalf of the General SS or on its order?

REINECKE: The contents of the document show clearly that Globocznik was neither acting on behalf of the General SS or on its order nor on behalf of the Waffen-SS. The document shows clearly that it was a special task given to Globocznik by Himmler personally, a task which had nothing to do with either of these two organizations.

HERR PELCKMANN: Of the various groups which you mentioned earlier, groups which are regarded by the Prosecution as a single organization, we have not yet dealt with the system of the concentration camps. How did the concentration camp system fit into the SS, and was there an organic tie between the concentration camp system and the SS?

REINECKE: An organic tie did not exist. The concentration camp system had a police character corresponding to its purpose. The organization of the concentration camp system was therefore a task of the Reich, and Himmler was entrusted with this task in 1933 or 1934. At that time he created a special organization for guarding the concentration camps, and this organization was known as the Totenkopfverbände (Death's-Head Units). This organization did not grow out of the General SS and never had any organic connection with it later. The first guards of the concentration camps were only to a very limited extent former members of the General SS. They also included members of the SA and of the other Party

organizations, members of the Party, and people who belonged to no party, but who, due to the conditions of that time, were unemployed and looking for work and food and a new sphere of activity. From these initial stages the Totenkopfverbände developed independently, and its members were given training similar to that of the Police. In 1939 they joined the Waffen-SS organization, which was at that time being formed. The task of guarding concentration camps was then turned over mainly to men unfit for service at the front. A small number of members of the General SS who were unable to serve at the front, members of the SA, too, members of the Kyffhäuserbund, and finally thousands of members of the Armed Forces were then assigned to guard duty at the concentration camps.

HERR PELCKMANN: You said that in 1939 the Totenkopfverbände joined the Waffen-SS. I shall have to ask you about this specially, because during the examination of the last witness, Totenkopf "units" and Totenkopf "divisions" had obviously been confused. Will you please give the exact definition of these two categories. What is meant by them?

REINECKE: The Totenkopfverbände were the guard units in the concentration camps until the beginning of the war. At that time they were transferred to various parts of the Waffen-SS. The Totenkopf Division had nothing whatever to do with the Totenkopfverbände. The Totenkopf Division was a division of the Waffen-SS which was formed in the first years of the war and was used at the front as a complete division.

HERR PELCKMANN: You just said that the Totenkopfverbände were transferred to the Waffen-SS in 1939. Did they, after they were transferred to the Waffen-SS, still have something to do with the guarding of concentration camps?

REINECKE: After their transfer to the Waffen-SS they had no longer anything to do with the guarding of concentration camps; they were assigned to the various divisions of the Waffen-SS soldiers.

HERR PELCKMANN: It has been alleged by the Prosecution that the unification of the SS as an organization was guaranteed by the establishment of a common command, and in that connection the Prosecution referred to the 12 head offices of the Reichsführer SS and Chief of the German Police, depicted on the organizational chart which the Prosecution submitted. Were these 12 head offices leading organs of the SS?

REINECKE: No, they were not leading organs of the SS.

HERR PELCKMANN: In order to shorten the proceedings, I shall ask you now about the head offices and their connection with the SS. Were the head offices of the Order Police and the Reich

Security Main Office also the command post for the General SS or the Waffen-SS?

REINECKE: No. The head office "Order Police" was the headquarters of the German Police, and the head office "Security Police" was the headquarters of the Security Police. Both were services of domestic administration, and were organically departments of the Ministry of the Interior. At no time did they have the authority to issue orders to the General SS or to the Waffen-SS.

HERR PELCKMANN: Was the head office of the Reich Commissioner for the Preservation of German Nationality and the so-called Volksdeutsche Mittelstelle an authority for the General SS or Waffen-SS?

REINECKE: No. Both of these head offices were authorities of the Reich and discharged only tasks of the Reich. Their members were civil servants and certainly not soldiers of the Waffen-SS or officials of any part of the General SS. Neither of these head offices had the authority to issue orders to the General SS or the Waffen-SS.

HERR PELCKMANN: In brief, were the remaining eight head offices command posts of the General SS or Waffen-SS?

REINECKE: Of the remaining eight head offices one must exclude two, namely the head office "Heissmeyer" and the head office "Personal Staff." The head office "Heissmeyer" had nothing at all to do with the SS, but was an office headed by Heissmeyer and belonging to the Reich Ministry of Education. The head office "Personal Staff" was also not an authoritative office but the office of Himmler's adjutant, the collecting point of the various sections which were subordinate to Himmler personally or which were carrying out his personal orders, but which had nothing to do with the organizations of the General SS and the Waffen-SS as such. These sections included, for example, the so-called "Lebensborn" society and the so-called "Ahnenerbe." The Reich medical officer Grawitz was also connected with this head office and carried out biological experiments, acting on Himmler's personal orders and without the co-operation of the organizations.

HERR PELCKMANN: Further details are, I think, unnecessary. I have one last question with regard to the organizations. Did the remaining six head offices represent a unified high command of the SS?

REINECKE: No, these six head offices were not a unified SS high command either. They were six departments working side by side with equal rights, and dealing with particular subjects; they were in a position to give orders but were not unified in the hands of a single person.

HERR PELCKMANN: Did not Himmler and his immediate staff represent a unified high command which as the central authority issuing orders would guarantee unified control and direction of the activities in the various fields of the head offices?

REINECKE: No, Himmler did not have such a staff. He himself interfered in the general direction of the whole SS only very rarely, and never in favor of unifying its command.

HERR PELCKMANN: Are not your statements here in contradiction to the writings and speeches of Himmler himself, for instance, in contradiction to his speech at Posen, in which he emphasized the uniformity of the organization under his command?

REINECKE: No, these speeches do not contradict the testimony I have given. Himmler was undoubtedly speaking of unity in this speech, and he was certainly planning for such unity, but that unity was in no way a reality. Himmler's speeches are therefore to be regarded as containing only plans for the future. Instead of working more closely together, as Himmler had intended, these organizations, due to their varied tasks, steadily drifted away from each other. Himmler was aware of this fact as his speeches clearly show, and it was for that very reason that he took advantage of the occasion to explain to his chiefs and leaders his own views on the uniformity of the organization. Real organizational unity did not, in fact, exist at any time.

HERR PELCKMANN: Did this lack of unity also affect the jurisdiction of the SS?

REINECKE: This was quite evident from the arrangements regarding jurisdiction. The jurisdiction of the SS did not apply at all to the General SS, but was created mainly for the Waffen-SS, and it also applied to the Police, because Himmler had declared the Police to be an active service for the duration of the war. At the beginning of the war there were only a few Police units fighting at the front as military units, but as the war, particularly the air war, continued, the entire German Police was declared to be a special task force and therefore came under the jurisdiction of the SS.

The same applied to the Security Police. In their case Himmler also issued a decree, in 1940, stating that the entire Security Police were being considered as a special task force for the duration of the war. Consequently, the Security Police also came under the jurisdiction of the SS legal department. But that the Reich Security Main Office and all its departments remained, organizationally, completely independent and without any connection at all to the General SS or Waffen-SS, is apparent from the fact that Himmler at the same time took the whole conduct of pretrial investigations, where members of the Reich Security Main Office were involved,

out of the hands of the SS jurisdiction and transferred it to a special pretrial investigation department which was part of the Reich Security Main Office.

The outcome of this was that although legal proceedings against members of the Reich Security Main Office could still be carried out and sentences could be passed, even the SS jurisdiction was denied any insight into the matters of the Reich Security Main Office and thereby any control was impossible.

The members of the guard units of concentration camps came under the jurisdiction of the SS legal department, because at the beginning of the war they had nominally become members of the Waffen-SS, that is, for reasons of economy and supply and also for reasons of uniform control they were nominally attached to the Waffen-SS.

HERR PELCKMANN: Now you say, Witness, that the General SS did not at all come under the SS and Police jurisdiction. Then under whose jurisdiction were the members of the General SS?

REINECKE: The jurisdiction of the SS came into force in October 1939, at a time when the General SS was already beginning to dissolve. Before that time the General SS came under the jurisdiction of the German courts. Members of the General SS were, therefore, prosecuted and sentenced by ordinary German criminal courts, and insofar as any members of the General SS stayed at home, they continued to come under the jurisdiction of the German courts during the war, although the jurisdiction of the SS was already in existence.

HERR PELCKMANN: Then to make it quite clear, Witness, the General SS was in times of peace and of war under the jurisdiction of the ordinary German civil courts. Is that correct?

REINECKE: Yes.

HERR PELCKMANN: The Prosecution has alleged that from the very beginning the SS was designed for illegal purposes, that from the very beginning it acted illegally, and that no differences can be made between the various periods with which we are concerned. Does the development of the jurisdiction of the SS confirm this allegation in any way?

REINECKE: If an organization has criminal aims and pursues criminal activities, then logically the jurisdiction of such an organization must, through its organization, its laws, and its activities, indicate that it covers such criminal aims and criminal activities. Precisely the reverse is the case. The SS, from the beginning of its formation, fought against crime on principle and at all costs, and it had a perfectly orderly administration of justice.

HERR PELCKMANN: How was the orderly administration of justice in the SS guaranteed?

REINECKE: By the so-called disciplinary law.

HERR PELCKMANN: Do I understand correctly that members of the General SS came in the first place under the jurisdiction of the regular German civil courts?

REINECKE: Yes, I said so before.

HERR PELCKMANN: Then in spite of that there was a disciplinary procedure, that is to say, a certain type of jurisdiction applicable to the members of the General SS. Is that correct?

REINECKE: That is what I was just going to explain. This specific disciplinary law consisted in the right of exclusion which every civil society has. The law provided, on the principle of selection, that people who had been previously convicted could not enter the SS at all and that people who committed punishable acts while members of the SS had to leave the SS. This principle was the best method of selection, because it automatically prevented the perpetration of crime.

The legal training in the field of this disciplinary law and the application of the disciplinary law itself, in addition to the administration of German law by the regular German courts, guaranteed that the SS would remain free of dubious elements. An agreement had been reached between the Reich Ministry of Justice and the Reich leadership of the SS that, on the one hand, the regular German courts would notify the SS if they had uncovered punishable acts of a member of the SS, and on the other hand, the SS would notify the Reich Ministry of Justice if the SS had found one of its members guilty of a crime.

This agreement was strictly followed. A special liaison officer to the Ministry of Justice was appointed, and the result was that in the first place, criminal elements were, in fact, eliminated from the SS, and that secondly, crimes punishable under German penal legislation were, in fact, tried by the ordinary German legal authorities.

HERR PELCKMANN: Witness, would you please make your sentences a little shorter? It would help the interpreter.

Why was a special jurisdiction introduced for the Waffen-SS at the beginning of the war? Was this done perhaps . . .

THE PRESIDENT: The Tribunal thinks you are going into this far too much in detail, Dr. Pelckmann.

HERR PELCKMANN: Your Lordship, this subject has not yet been dealt with before the Commission, and I believe that in accordance with the decision of the Tribunal I can introduce new subjects which are important. But I shall attempt, Mr. President, to be brief.

[Turning to the witness.] Did you understand my last question, Witness?

REINECKE: Yes.

HERR PELCKMANN: Why was a special jurisdiction introduced for the Waffen-SS at the beginning of the war? Was its purpose to cover up crimes?

REINECKE: This special jurisdiction was created because SS units were used as troop units and therefore, for these units, courts-martial had to exist. This jurisdiction was created by law and not by some order of Himmler, and it introduced for the Waffen-SS the same laws and the same legal organization which already existed for the Wehrmacht. It cannot by any means be said, therefore, that this legal system was introduced to cover up criminal acts. In fact, the exact reverse is true.

HERR PELCKMANN: But the Prosecution alleges specifically that the SS was trained for terror, atrocities, and crimes. That is contradicted, is it not, by your assertion that crime was fought against in the SS at all costs? Does it not give this impression?

REINECKE: Training in the SS was systematically directed to decency, justice, and morality. Institutions existed which guaranteed that this training was carried out in full. Not only was the law, including international law, taught in the Junker schools of the SS but legal proceedings were held openly before the entire units. The head office "SS Courts," as the central department of the legal system, issued its own literature to insure that these principles of decency and justice became firmly established among all members of the SS. The legal training as it was handled in the SS was the exact opposite of the Prosecution's assertion.

HERR PELCKMANN: The Prosecution might reply that this strict legal training, this fight against crime before and during the war just proves how necessary it was, since the SS was full of criminals. Would the Prosecution be right in saying so?

REINECKE: No, it would not be right. Special principles of selection prevailed in the SS. The SS was bound by so-called fundamental laws to observe a particularly moral conduct. Offenders in the SS who infringed on a law incurred heavier guilt and therefore deserved severer punishment. And that explains the more severe punishment of SS members in comparison with members of the Armed Forces or German civilians.

HERR PELCKMANN: Himmler was the highest legal authority. What were his powers? Could he, for instance, direct a court to pass a certain judgment?

REINECKE: No, Himmler could not do that. On the whole he observed the legal rules. As the highest legal authority he had, of

course, the right, bestowed on him by Hitler, to quash any sentence, but he made use of this right only in very rare cases. The judge was independent, bound only by the law. His independence was guaranteed by law. The findings and sentences of the SS courts were reached by a majority vote. Any interference by the highest legal authority, Himmler, was not possible. He had, however, the right to order a retrial of the case, or he could quash the sentence. He could, therefore, have a case retried several times if he did not agree with the verdict. But even in this case the decisions of the courts of the SS reached on the basis of the existing laws were always finally upheld.

Sentences passed by the SS courts were sometimes canceled by the highest legal authority, Himmler, up to three or four times because he considered the penalty too high or too low. The judges always arrived at the same sentence on the basis of the law, and eventually their decision was upheld.

HERR PELCKMANN: Your description of the legal procedure and the correct administration of justice contradicts the assertion of the Prosecution that the SS had been designed for matters for which neither the Party nor the State wished to assume responsibility.

REINECKE: What I have said here about the legal training of the SS corresponds both to the historical development of the SS and to the facts. The apparently unbridgeable gap between the assertion of the Prosecution and my testimony is explained by the fact that the Prosecution simply considers the SS as an organizational unit, which it has never been.

The Prosecution contends that wherever Himmler acted, the SS acted, and also that wherever the State executive acted, the SS acted. But these organizational connections did not exist, and for that reason the allegations of the Prosecution in that respect are not correct.

HERR PELCKMANN: Since numerous documents dealing with crimes committed allegedly by members of the Waffen-SS were submitted to the last witness, I have to ask you: Did the Waffen-SS commit crimes against the civilian population in the occupied territories and at the front, and were these crimes committed systematically and in violation of international agreements, in violation of the penal law existing in the countries concerned, and in violation of the general principles of penal law of all civilized nations?

REINECKE: No, there can be no question of that. It is clear that on the part of the Waffen-SS violations of international law occurred in individual cases, just as they took place on the other side also. But all these were isolated occurrences and not systematic. All

these individual acts were prosecuted under the jurisdiction of the SS and the Police in the most severe manner. In the head office "SS Courts" there existed a department which guaranteed and carried out an over-all control of the entire legal system. From this viewpoint I can testify in this courtroom that in such individual cases the courts in every theater of war and during the entire duration of the war passed sentences for murder, looting, manslaughter, assault, rape, ill-treatment, and also for killing prisoners of war; and in trying such cases the race or nationality of the person concerned had no influence whatever. All these were individual and not systematic acts, and this is confirmed by the criminal statistics of the head office "SS Courts." The absolutely strict administration of the law kept criminality below the normal level. It varied between 0.8 percent at the beginning and 3 percent at the end of the war.

HERR PELCKMANN: But by order of Hitler dated 13 May 1941, a document which was submitted here, the prosecution of such crimes was prohibited, was it not? Is that not a contradiction of your testimony regarding the prosecution of such cases?

REINECKE: No, it is not a contradiction, because that order of Hitler, though declaring the prosecution of such cases not compulsory, nevertheless left the decision of whether or not the case should be tried to the discretion of the highest legal authority. During the entire period of my long practice I . . .

THE PRESIDENT: What is the reference to the order of Hitler?

HERR PELCKMANN: I much regret, Mr. President, that at this moment I cannot state the number. It is the order which was issued before the beginning of the Russian campaign and which says that only for the maintenance of discipline should excesses of the troops be punished. If I may, I shall state the number tomorrow.

I have only one more question, Mr. President, before closing this chapter.

MR. COUNSELLOR SMIRNOV: Mr. President, I think I can give you the information. This directive is signed by Keitel and its title is "The Struggle against the Partisans." It is USSR-16.

PRESIDENT: You say you have only one more question?

HERR PELCKMANN: I have only one more question before closing this particular chapter; I will start a new one, if I may, tomorrow morning.

It was alleged by the Prosecution, Witness, that the so-called courts-martial of the SS and the Police murdered the civilian population in the occupied territories under the cloak of administering the law. What were the courts-martial of the SS and Police?

REINECKE: Such courts-martial of the SS and Police never existed at any time. There were, as I know from my own experience, courts-martial of the Security Police in Poland. I have learned now that such courts-martial existed also in the other occupied territories. These were courts-martial of the Security Police, that is to say, entirely an affair of the Police, which had nothing whatever to do with the jurisdiction of the SS and the Police.

HERR PELCKMANN: Thank you.

THE PRESIDENT: Well now, will you tell us what are the subjects upon which you are going to question this witness tomorrow?

HERR PELCKMANN: The organization of the concentration camps and the SS legal system.

THE PRESIDENT: You have been dealing with the SS legal system today. That is the subject you have just concluded. You have told us that the judges of the SS were independent. That is the part of the legal system, isn't it?

HERR PELCKMANN: Mr. President, I wanted to deal with special questions connected with the jurisdiction in concentration camps.

THE PRESIDENT: What questions are you going to deal with?

HERR PELCKMANN: I would like, tomorrow, to deal with the organization of the concentration camps, with the SS and Police jurisdiction, and with the connection between the two.

THE PRESIDENT: I have got down that you are going to deal with the concentration camps and the legal system in concentration camps. What else?

HERR PELCKMANN: Nothing else, Your Lordship.

THE PRESIDENT: Well, the Tribunal wishes me to tell you that they think you have been much too long and they will expect you to be much shorter tomorrow morning.

[The Tribunal adjourned until 7 August 1946 at 1000 hours.]

ONE HUNDRED AND NINETY-SEVENTH DAY

Wednesday, 7 August 1946

Morning Session

THE PRESIDENT: Yes, Dr. Pelckmann.

HERR PELCKMANN: Witness, before passing on to a new subject, I have one more question to clarify with reference to yesterday's examination.

In connection with a document there was some discussion of a cavalry brigade of the SS. I was afraid—and I gathered this from certain statements—that this brigade might be confused with the mounted units of the General SS. I draw the attention of the High Tribunal to the testimony of the witness Von Boikowski-Bidau before the Commission, and I now ask you, Witness, to tell us in which way the mounted units of the General SS differed from the formation which I have just mentioned.

REINECKE: Mounted units of the General SS were special units of the General SS like, for instance, the motor units of the General SS. They had nothing whatever to do with the later cavalry units of the Waffen-SS, nor were these later units built up from the mounted units.

HERR PELCKMANN: A horrifying moving picture of the atrocities in concentration camps was shown in this courtroom, and the Prosecution has alleged that such conditions were the outcome of a consistent policy of the SS.

Can you, as a high-ranking judge, comment on this allegation? Did the courts of the SS gain knowledge of these occurrences, and if so, did they remain silent?

REINECKE: Of a consistent policy of the SS with reference to the conditions shown in this film, there can be no question. Frightful atrocities were committed in concentration camps, but the film shows the effect of the total collapse of the German Reich on the concentration camps; it does not, therefore, represent normal conditions in such camps. The normal conditions were quite different. I am in a position to pass judgment on these matters, because the legal authorities of the SS and the Police used all the means at their disposal...

THE PRESIDENT: Is the witness speaking from personal observation of the concentration camps?

HERR PELCKMANN: Yes, Mr. President, he is just about to explain that.

REINECKE: I am entitled to pass judgment on these matters, because the legal authorities of the SS and the Police used every means at their disposal, sometimes even overstepping their own authority, to take legal measures against these atrocities. We had investigating commissions in the concentration camps which reported to me repeatedly on conditions in the camps.

If the legal authorities of the SS and the Police were in a position to take steps against such conditions, then it was only because these conditions were not the result of a consistent policy of the SS, but were caused by criminal acts of individual persons or small groups and by a few highly placed superiors, but were not committed by the SS as an organization. The legal authorities took steps in order to fight against these crimes and to eliminate such criminal elements from the SS.

HERR PELCKMANN: I want to quote from a document already submitted by the Prosecution. It is a letter from the SS Economic and Administrative Main Office, Concentration Camps Department, Reference D, *et cetera,* and contains instructions to the senior medical officers in concentration camps.

THE PRESIDENT: What is this document? What is the document?

HERR PELCKMANN: It is a document already submitted by the Prosecution, E-168, and it is also in the official document book on concentration camps.

THE PRESIDENT: I cannot hear what the reference is. Is it "D", dawn, or "G"?

THE INTERPRETER: "E", easy—168.

THE PRESIDENT: What is the exhibit number?

HERR PELCKMANN: I beg your pardon, I cannot give you this number at the moment.

In that document it says among other things:

> "With such a high death figure the number of detainees can never be brought to the level demanded by the Reichsführer SS. The senior camp medical officers must use every means at their disposal to reduce the death rate in the various camps considerably. The best medical officer in a concentration camp is not the man who believes that undue harshness must be applied, but rather the one who, by means of careful control and interchanges at the various places of work, maintains a high standard of efficiency.

"Medical officers in the camps should check the food of the prisoners more often than before, and with the approval of the administration they should submit to the camp commander suggestions for improvements. Naturally these must not merely appear on paper, but camp medical officers should make regular checks. Apart from that, the medical officers should see to it that the working conditions at the various places of work are improved as much as possible. It is necessary, for that reason, that medical officers should thoroughly inspect the places of work and investigate working conditions. The Reichsführer SS has ordered that the death rate must be reduced at all costs."

THE PRESIDENT: Dr. Pelckmann, didn't you understand that we don't wish to have—can't you hear?

HERR PELCKMANN: Yes.

THE PRESIDENT: The Tribunal has indicated to the Prosecution they don't want to hear these documents read which have already been put in evidence, and there you are reading every word of this document.

HERR PELCKMANN: I understand, Mr. President.

THE PRESIDENT: Surely you can summarize it—if you have a question to put upon it, that must be possible.

HERR PELCKMANN: Do you know, Witness, whether such instructions were actually carried out in the concentration camps?

REINECKE: The investigating commissions of the head office "SS Courts" have repeatedly confirmed to me in personal reports that such instructions were in fact put into practice in the concentration camps. They reported to me that accommodation, hygienic conditions, medical care, feeding, and also the treatment and the physical appearance of the detainees were for the most part good. They also confirmed that the strict prohibition of ill-treatment of detainees was repeatedly made known in the camps, and was, in fact, observed.

The picture of the concentration camps under normal conditions is, therefore, quite a different one. To the outsider, the cleanliness and the smooth functioning of the working program was noticeable. If crimes have been committed in concentration camps, then they occurred in a way in which they remained hidden from the outside world and even from the inmates of the camp unless they participated in them.

THE PRESIDENT: Are you saying that you personally received this letter or that you had these facts before you?

REINECKE: I received reports from these investigating commissions, which were submitted to me personally, and from these reports I was able to gather the facts which I have just related.

THE PRESIDENT: Well then, you knew in December 1942 that 70,000 arrivals in concentration camps out of 136,000 had died, did you?

REINECKE: No, that I did not know. I shall have to supplement my testimony by giving now an answer which I was to have given in connection with a later question, namely, that the head office "SS Courts" instituted these investigating commissions for the disclosure of crimes committed in concentration camps only as from the second half of 1943.

THE PRESIDENT: I thought you said in answer to my question, "These facts were known to me."

Go on, Dr. Pelckmann.

HERR PELCKMANN: In this connection, I draw the attention of the Tribunal to my affidavit Number SS-65 to 67 which was translated in its entirety at my request. It was deposed by a judge who conducted the investigations and it contains numerous additional details.

[Turning to the witness.] To what extent were the legal authorities of the SS responsible for the administration of the law in concentration camps?

REINECKE: The SS jurisdiction did not apply to the detainees in concentration camps. Only the regular German courts had responsibility for them. To a certain extent the SS legal authorities also had to administer justice to the political prisoners in the concentration camps, but with the proviso that the Reich Security Main Office, in this case, had the preference in making investigations. Guards and members of the commander's staff in concentration camps came under the jurisdiction of the SS legal authorities to the full extent laid down by military courts.

HERR PELCKMANN: You have already mentioned, Witness, that the legal authorities began prosecuting crimes committed in concentration camps in 1943. When in 1943?

REINECKE: In the second half of 1943 the legal authorities, while following up a case of corruption in which the former camp commander Koch was involved, came upon clues to crimes leading to other camps. It was from that moment that the legal authorities became active.

HERR PELCKMANN: How was it that the legal authorities became active so late?

REINECKE: So-called legal officers were attached to concentration camps for purposes of supervision. These legal officers, who

were the instruments of the appointing authority concerned, had the duty of writing so-called reports of evidence, if crimes of any sort occurred, and of submitting such reports to the courts so that they might take over the prosecution of the crimes.

HERR PELCKMANN: One intermediate question...

THE PRESIDENT: Dr. Pelckmann, I don't think he gave an answer to your question at all. Your question was: How was it that it was so late as the second half of 1943 that these investigating commissions began to become active? He did not answer that question at all.

HERR PELCKMANN: Your Lordship, the witness has not yet finished. I was just going to put an intermediate question, and in his further explanations the matter will become quite clear.

[Turning to the witness.] I want to put an intermediate question, Witness. Were these legal officers subordinated to you, to the head office "SS Courts", or to the SS legal authorities, or to whom were they subordinated? Can you give names?

REINECKE: The legal officers were not subordinates of the legal authorities, but they were officials of the chief justice making the investigations.

HERR PELCKMANN: Who was that in the case of the concentration camps?

REINECKE: In the case of concentration camps it was Oswald Pohl, who was already mentioned yesterday.

HERR PELCKMANN: Now, will you please continue with the answer to the question, why did the legal authorities learn of these atrocities at so late a stage?

REINECKE: The reason was that earlier the legal authorities had not had any suspicions, owing to the fact that these legal officers, during the years until 1943, were continuously handing in such reports of evidence to the courts. These reports of evidence were very detailed. In cases of unnatural death of detainees, they contained photographs of the place of the crime, medical reports, evidence by detainees and guards. These reports were so detailed that the suspicion that other crimes could be committed behind the backs of the legal officers could not arise.

These reports of evidence which were submitted led in every case to the trial and sentencing of the criminal, and such sentences were pronounced throughout all the years.

HERR PELCKMANN: Might not the reports of evidence have been forged, and might not the actual facts have been covered up in that way?

REINECKE: In part this was the case. I just said that during the second half of 1943 we began investigations in the camp at Buchenwald. Already in 1941 we had carried out such an investigation in Buchenwald, which, however, had no result.

During the later investigation, in 1943, it was in fact discovered that in 1941 the commander, Koch, had used forged reports, coached witnesses, and forged medical reports which had deceived the investigating judges. We then conducted investigations in other camps, where we found that these reports of evidence had been in order.

HERR PELCKMANN: Now, will you please describe briefly what further steps the SS legal authorities took with regard to these crimes in concentration camps?

REINECKE: The clues in the camp at Buchenwald were manifold and they led to many camps. The matter became more complex from month to month. It was evident that the investigating organs of the legal authorities had been utterly unsuitable for the task of conducting a purely criminal investigation of this sort, because the legal authorities, in view of their character as a military legal instrument, lacked a fundamental basis, namely, an authority capable of carrying out criminal prosecutions.

For that reason, judges were quickly given short training courses in criminal proceedings, and at the same time, in collaboration with the Reich Security Main Office, experts from the Reich Criminal Police Department were made available for the investigation of these crimes.

Such commissions were detailed to many camps and they worked continuously until the collapse. The head office "SS Courts" created a special court which had almost exclusively the task of trying these cases involving crimes committed in concentration camps. In the head office "SS Courts," which was the leading office of the legal authorities, a special head department was created which carried out the over-all direction of the investigations in concentration camps and which was to take over the task ordinarily discharged by the public prosecutor.

HERR PELCKMANN: Now, briefly summarized, what was the outcome of the fight of the SS jurisdiction against crime in concentration camps?

REINECKE: Altogether, approximately 800 cases were investigated; 400 of these 800 cases were brought to trial, and 200 out of those 400 ended with sentences by the court. Among the cases investigated were proceedings against five commanders of concentration camps; proceedings against two commanders were completed and ended with a sentence of death by shooting.

HERR PELCKMANN: Were any difficulties put in the way of your commissions conducting these investigations?

REINECKE: Very considerable difficulties were put in the way of these commissions. These difficulties originated with Pohl, who was using every means in his power to prevent the investigating commissions from penetrating to the real sources of these crimes. In that way, the legal authorities, being unable to make rapid progress and being compelled to break up piecemeal the secrecy surrounding the evidence, were forced to work together with detainees. In almost every camp in which such a commission was at work, confidential agents were recruited from among the detainees who submitted material to the investigating judges. But it was very difficult to persuade these detainees to co-operate, because they feared that they would be killed if their activities were discovered.

HERR PELCKMANN: But could you not easily have removed these obstacles by reporting, for instance, to Himmler? Pohl, as far as I know, was directly subordinate to Himmler, so that Himmler could have given him the necessary orders?

REINECKE: Oh no, this man Pohl did not proceed as clumsily as that. Outwardly he pretended to welcome and support with all means the investigating work of the head office "SS Courts." And that was how he represented the matter to Himmler, after we had drawn Himmler's attention to Pohl's somewhat doubtful role. In reality, Pohl sabotaged with all the means of his tremendously powerful position the investigations we were making and worked hand in glove with the detainees and the criminal commanders, as we proved on the basis of evidence.

In 1941, to mention one outstanding example, when our first investigation in the Buchenwald Concentration Camp failed, as I have described, Pohl wrote a letter to the camp commander Koch, which I have read myself, and which contained the following:

> "I shall use all the power of my position to protect you if some unemployed lawyer should again stretch out his greedy hangman's hands toward your clean, immaculate person."

That is how Pohl always worked. He was not only caught in the death machinery of the concentration camps, but he became at the same time the most corrupt person in the whole Reich. Of that we found evidence toward the end of the war through the many proceedings against organizations which he headed in private business. As head of that criminal clique, he actually tried to undermine the system of trustees among the detainees, which he knew might endanger his own person. He had one of our confidential agents in the camp of Sachsenhausen—his name was Rothe—locked up and was trying to elicit, under false pretenses, an order from

the Reich Security Main Office, or rather the Reich Criminal Police Department, to have the man hanged publicly before all the detainees of the camp so as to intimidate them and at the same time make the investigation work of the legal authorities impossible. One of our investigating officers heard of this in time and was able to prevent it at the last moment.

HERR PELCKMANN: More slowly please, Witness, much more slowly. These are important statements, and the translation is not simple.

REINECKE: That was how this criminal Pohl worked. The most important support in his fight against the legal authorities was the Führer Order Number 1, regarding secrecy, which was posted in every office of the SS and Police. According to that order, matters which had to be kept secret could only be communicated to the persons immediately concerned, and even those could be told only as much as they absolutely had to know, and even then, only for the period in which they were actively concerned with the particular matters.

Everything in the concentration camps was secret; only with special passes and credentials was it possible to enter them. The work done by the detainees was secret, ostensibly because "V" weapons were being produced. The other doings of the detainees were secret, ostensibly for reasons of counter intelligence. Correspondence on concentration camps was "secret," and for that reason could not be checked at all. For years Pohl deftly withdrew behind this screen of close secrecy, and he surrendered to the advancing investigation of the legal authorities only step by step whenever on the basis of individual facts he was systematically cornered.

HERR PELCKMANN: Then, Witness, do you believe that with the results you have just described you came near to discovering the real extent of the crimes, as we have learned them from the proceedings here?

REINECKE: To the extent to which I know them today, certainly not. And the reason for that is that the legal authorities of the SS and Police dealt with all these crimes as individual crimes, and were unable for long years to detect the system of criminality as it can be recognized today.

When toward the end of 1944 the legal authorities succeeded, on the strength of individual facts, in cornering the criminals Pohl and Grawitz, and also Müller from the Gestapo, who was covering up many of the crimes, it was for the first time that these men referred to orders from above. The investigations which the legal authorities then commenced along a new line collapsed together with the German war machine.

HERR PELCKMANN: Did you then, toward the end of 1944, come near to discovering the actual extent of the crimes, the mass exterminations?

REINECKE: It was clear at the end of 1944 that orders from above must exist, but it was not recognizable even then that they dealt with mass exterminations of a tremendous extent.

HERR PELCKMANN: According to the result of the investigations you have just described, who was responsible for the crimes which were revealed?

REINECKE: Of the highest superiors, Pohl; next to him the former Reich medical officer of the SS and Police, Grawitz; and next to him the Chief of the Gestapo, Müller. Apart from these, the commanders of the concentration camps, members of the commanders' staffs, medical officers in concentration camps, and to a considerable extent, criminal detainees in the concentration camps.

HERR PELCKMANN: Would it therefore be correct to say that without distinction all members of the groups of persons which you have just mentioned participated in the crimes?

REINECKE: No, that is not correct. The investigations which we carried out proved clearly that certain camps were perfectly in order, that not every commander was a criminal, and that many members of the commanders' staffs and many medical officers knew nothing about the crimes. Above all the guards in the concentration camps had nothing whatever to do with the crimes, because they themselves were unable to gain knowledge of the real happenings within the concentration camps.

HERR PELCKMANN: You have been speaking about the commander at the concentration camp of Buchenwald, Koch. His case has already been mentioned in the course of these proceedings, and the Prosecution at that time alleged, on the basis of testimony given by the detainee Blaha, that Koch had been sentenced for embezzlement and for the murder of three persons whose existence was inconvenient to him. The Prosecution described the case in a way which gave the impression that at that time the SS court had simply ignored the numerous other cases of killings. Is that correct, as far as you know?

REINECKE: No, that is not correct. The proceedings against Koch were based on a charge of corruption, and on that charge he was sentenced to death. The actual contents of the findings against Koch, that is, the reason for the death sentence imposed on him was the system of murder, a system which Koch invented and applied in many cases. This version of the findings had to be chosen because there was evidence of so many crimes which Koch had committed in the distant past and of which the traces had meanwhile been

eliminated, that if it had been possible at all, it would have taken long months and years to clear up these individual cases. It was for that reason that, using the shortest possible means of proof to put a stop to Koch's activities at once, these three cases were taken up as being typical, but he was in fact sentenced for the system of murder in the Buchenwald Concentration Camp.

HERR PELCKMANN: The testimony of this witness on these events is supported by the affidavits SS-65, 64, 66, 67, 68, and 69. No, not 68, I listed that by mistake; not 68, but 64 through 67, and 69. These affidavits were deposed by the investigating judge, Dr. Morgen, who was to have appeared here as a witness. Unfortunately, he only arrived at the beginning of July, just before the hearings before the Commission were completed, and I was not able to prepare him for his examination in time. I have submitted his affidavit, however, and the High Tribunal will be able to judge whether it might possibly be necessary to hear Dr. Morgen in person, since his testimony concerns the most important matters.

[Turning to the witness.] What was Himmler's attitude with regard to these investigations?

REINECKE: When the crimes were discovered at Buchenwald, at the end of 1943, Himmler was given a report on the matter at once, and he was throughout kept informed of the progress of the investigations. Himmler displayed very considerable activity, and he himself ordered that the investigations be strictly carried out. Only with his authority was it possible at all to pass the gates of the concentration camps. Then in the middle of 1944, he suddenly issued an order to the contrary. As the highest legal authority, he ordered that the proceedings against Koch should mark the end of all judicial investigations in concentration camps. Koch had been sentenced to death and was to be hanged publicly before the assembled detainees. Pohl was to direct the execution personally and was to address the attending guards with appropriate words. The other perpetrators were to report their crimes voluntarily and in the event of such a voluntary report, he, Himmler, might possibly pardon or reprieve them. Any one who failed to report his crimes could only expect the court's sentence of death. The chief of the head office "SS Courts" protested against this order from Himmler. He did not, however, obtain a final decision from Himmler, though Himmler tolerated the future proceedings.

The head office "SS Courts" at that time intentionally delayed the completion of the case against Koch so as to have an opportunity of extending the investigating activities to other camps, and that was actually achieved. The investigating commissions of the Reich Criminal Police Department, which had already been withdrawn as a result of Himmler's order, resumed their activities, and from

the autumn of 1944 the investigations were continued on a broad basis. Authoritative powers, which were necessary in view of Pohl's lasting resistance, were issued by the special judge of the Reichsführer, and could not be ignored even by Pohl.

HERR PELCKMANN: The details of this dramatic exchange between Pohl, Himmler, and the SS legal authorities are also described in Dr. Morgen's affidavits Numbers 65 to 67.

Did you, Witness, in the course of these investigations, learn of measures or orders from Himmler or Hitler for the biological extermination of Jewry?

REINECKE: No. We neither saw such orders at any time, nor did we succeed, in the course of our investigations, in getting hold of them or in gaining knowledge of them in any other way. Such monstrous orders we could not imagine. Himmler had always shown us only an ideal face: cleanliness, decency, fight against crime at all costs. At the end of 1943, on the occasion of a conference, he confirmed these principles to me personally and in detail. That a system of mass extermination should exist was an idea which, under the circumstances, no one could possibly imagine. We found horrifying conditions in the concentration camps, and we learned many things which shocked us, but that idea was never in our minds. Names like Hoess and Eichmann did come up during our investigations and proceedings were, in fact, instituted against both, but at the end of the war they were still in their initial stages. Hoess and Eichmann were to us merely names like Brown or Jones. No one could possibly guess that behind these men the henchmen of a dreadful system of extermination were hiding. Even when, at the end of 1944 and the beginning of 1945, we came near to establishing the actual cause of the crimes committed in concentration camps, namely, that crimes were being carried out by order, this line of defense of Pohl, Müller, and Grawitz still appeared incredible, because if there really had been orders from above carried out by these three persons, then it should have been easy for them to go to Himmler and to demand the exclusion of the legal authorities from these matters.

And so we ourselves, in spite of these painstaking efforts of the investigations, had no clear judicial evidence that mass exterminations on a large scale—not to mention the biological extermination of Jewry—had been carried out, and we continued, as before, to investigate the crimes from the point of view that they were individual crimes, although they had been carried out to an alarming extent and in alarmingly large numbers.

HERR PELCKMANN: There exists a pamphlet called *SS in Dachau,* issued by the American CIC, by a Colonel Quinn. Unfortunately I cannot submit it to the Tribunal at this time, because I

had to return it. But it is in the library and is generally known. It contains testimony given by an anonymous inmate and signed . . .

THE PRESIDENT: You should have taken a copy of the document. You cannot testify or tell us what the document is if you cannot produce it. The fact that it had to go back to the library is no reason why you don't have it. There would have been no objection to your bringing a copy of it.

HERR PELCKMANN: May I try to bring a copy after the recess, Mr. President?

THE PRESIDENT: Yes, if you would like to.

HERR PELCKMANN: It contains a statement by an anonymous . . .

THE PRESIDENT: Well, we do not want to know what it contains. We do not accept from you what it contains.

HERR PELCKMANN: In that case, I shall postpone this question.

Witness, evidence has been submitted to this Tribunal that in the gas chambers at Auschwitz and other places, millions of Jews were murdered. You, however, discovered in your investigations that individual persons and a small circle of persons committed the crimes which you described. Is it possible, as far as you know, that this comparatively small circle of persons is also responsible for the extermination of these millions?

REINECKE: Investigations of the head office "SS Courts," particularly the final stages of the investigations just before the end of the war, show that individual persons and a small circle of persons are also exclusively responsible for these things. Otherwise, these outrageous things could not possibly have escaped the attention of the legal authorities for so long.

HERR PELCKMANN: Did you, in your conversations with Dr. Morgen, gather any further information which might support this assertion?

REINECKE: Dr. Morgen was a judge before me, who during all the years was attached to the Reich Criminal Police Department in order to carry out investigations in the concentration camps from there. Dr. Morgen has extensive knowledge. I know today that he himself talked with those responsible for these mass exterminations, and he gained a clear insight into all these matters. He can prove that the origin of the extermination of the Jews is not to be found in the SS but in the Chancellery of the Führer.

THE PRESIDENT: Dr. Pelckmann, I understood from you that you put—that you were putting in two affidavits from Dr. Morgen, is that right?

HERR PELCKMANN: Three, Mr. President.

THE PRESIDENT: Well, three—five, if you like; but this witness cannot tell us what Dr. Morgen says. Dr. Morgen must speak for himself from his affidavits.

HERR PELCKMANN: In that case, perhaps I may return to this when I submit the affidavits.

[Turning to the witness.] It is alleged by the Prosecution that these acts could not have been deeds of individuals, but that the logical application of the Party Program regarding the Jewish question had to lead to these crimes at Auschwitz. What can you say to that from your own knowledge and experience of the fight against these crimes?

REINECKE: I have already said that Himmler always showed the SS only his ideal face, and these ideals were considered by the SS as the expression of the Party Program. Hitler's order for the biological extermination of Jewry, as I know it today, is an absolute . . .

THE PRESIDENT: He said that over and over again about Himmler showing his ideal face to the SS. He said it before, you know. He should not have to say it more than once.

HERR PELCKMANN: May I ask him, Mr. President, what his attitude is on the allegation of the Prosecution that the extermination of Jews in Auschwitz was considered by members of the SS as a logical outcome of the principles which the SS had learned?

THE PRESIDENT: How can he give evidence about that? He can tell us what he saw and what he did. He hasn't told us yet whether he has ever been in the concentration camps.

HERR PELCKMANN: Witness, did you know anything about the activity of the Einsatzgruppen and Einsatzkommandos of the Security Police and the SD in the East, as they have been mentioned here in this Trial?

REINECKE: I knew nothing about them. I only knew that the Security Police was stationed in the operational zone in the East, where it was carrying out security measures, and I believed that this was the task of the Security Police in that area. The legal authorities never knew of any other orders in that connection, and it was only here that we heard of these things for the first time.

HERR PELCKMANN: Was it possible for members of the Waffen-SS to leave the Waffen-SS if they did not agree with the tasks which they were given or the orders which were issued?

REINECKE: A possibility of this sort did not exist at all. Service in the Waffen-SS was military service, legally established and legally recognized. Even members of the Waffen-SS who had joined

as volunteers were later subject to general conscription and bound by compulsory military service. It was therefore possible to leave the Waffen-SS only by means of desertion, and then the deserter would have had to expect the full consequences of the law.

HERR PELCKMANN: It is stated by the Prosecution that the criminal activities of the SS were so extensive and applied to so many cases of illegal acts that their illegality could not have remained hidden from the members of the SS. Is that correct?

REINECKE: The SS was not a single unit. I have already described the various organizations of the SS, and the individual member of the SS had no insight into the various organizations. He saw his General SS and his Waffen-SS, in which such crimes were not committed, and so he could never hold the belief that he belonged to a criminal organization. He could actually not have any idea of the crimes which were established here.

HERR PELCKMANN: Your Lordship, finally may I be allowed to put one question to the witness arising from the fact that together with a staff of assistants he was occupied with the compiling of affidavits. If the High Tribunal desires to hear how these affidavits were obtained and compiled, then this witness can give information about it.

THE PRESIDENT: Yes, very well. You may ask him.

HERR PELCKMANN: 136,213 affidavits were compiled and entered on printed forms in various files, together with a survey of the various fields dealt with and a numerical classification of the affidavits in the individual groups of subjects. Witness, who compiled these affidavits?

REINECKE: They were evaluated and compiled under my direction by 15 SS internees who were judges. Some 170,000 of the statements sent in were evaluated. Of these, 136,213 affidavits and applications to appear as a witness were compiled to form a collection of documents. The rest are only requests for a hearing, *et cetera*. Those 136,000 statements in the collection were classified according to the various subjects, and they form part of the defense case of the SS.

HERR PELCKMANN: Where did you obtain this considerable number of affidavits?

REINECKE: Mostly from camps in the American and British Zones; to a smaller extent from the French Zone; none at all from the Russian Zone and from Austria.

HERR PELCKMANN: What procedure did you adopt in evaluating and compiling these affidavits?

REINECKE: I have just explained that in outline.

HERR PELCKMANN: Yes, we do not need details. Thank you. Did the selection . . .

THE PRESIDENT: Dr. Pelckmann, what I understood the witness to say was that there were 170,000 statements utilized, and somehow, from these 170,000 statements, 136,000 affidavits were obtained. Well, how were they obtained? The Tribunal would like to know. Before whom were they sworn?

HERR PELCKMANN: The witness will be able to explain that, Mr. President.

REINECKE: These 170,000 affidavits were sworn by interned members of the SS. Of this total figure of 170,000 these 136,213 affidavits were, in fact, utilized by my colleagues. The remaining affidavits were not used, because they were either irrelevant or submitted inaccurately or too late.

THE PRESIDENT: You mean the whole 170,000 were sworn affidavits?

HERR PELCKMANN: Sworn before whom, Witness?

REINECKE: Part of these 170,000 affidavits were not sworn. The 136,000 affidavits, however, were all sworn. We knew the decision of the High Tribunal that an affidavit sworn before a German lawyer would only be valid if it had been sworn before May of this year, and that after May of this year affidavits would have to be sworn before an Allied officer. That, however, was not done in all the camps. After May 1946 some affidavits were still sworn before lawyers and courts and in accordance with the decision of the High Tribunal those had to be discarded as invalid. For that reason, only 136,000 affidavits remained.

HERR PELCKMANN: Were the affidavits selected and evaluated with a view that only affidavits favorable to the defense of the SS should be considered?

REINECKE: No, all affidavits were fully considered.

HERR PELCKMANN: How is it that on some subjects many thousands of statements are available, whereas on others only a few affidavits are contained in the list?

REINECKE: From the mass of the affidavits submitted, it is evident that the bulk of the SS members did not understand the Indictment. They cannot imagine, for example, that they were active in a conspiracy; they cannot imagine that they were preparing a war of aggression. For that reason, members of the SS testified only on such subjects which appeared to them typical of their work in the SS, the combat soldier on his experiences at the front, and the member of the General SS on the nature of his work in the years from 1933 to 1939.

HERR PELCKMANN: To give an example—the Tribunal will be able to see it later from the affidavits—under IV, Numbers 1 to 9, here the question is raised: "Was ill-treatment in concentration camps forbidden?" Now, if there are only two statements on this point, does that mean that only two out of hundreds of thousands of members of the SS can confirm this prohibition, while all others—and this would be important—know the opposite to be true?

REINECKE: No, that is just what it does not mean. It does mean that the members of the SS who were questioned could not make a statement on that point at all, because they did not know anything about it; they could give an answer neither in a negative nor in a positive sense, and for that reason they passed it without making any statement at all.

HERR PELCKMANN: Do you think, judging by your knowledge of the various branches of the SS and their activities and of the attitude of the bulk of the SS men, that these 136,000 or so affidavits represent the average knowledge of the bulk of the SS men, even though the entire strength of the SS was, of course, considerably more than 136,000?

REINECKE: One must bear in mind that most of the men and junior officers who represent the bulk had already been released at the time when the affidavits were deposed. It must also be considered that in many camps a great many technical difficulties existed and inquiries were not made everywhere on uniform lines. In addition, statements of opinion from the Russian Zone and from Austria are missing altogether. In spite of these considerable deficiencies, I believe that I can say on the strength of my own knowledge of the typical activities of the SS that the whole picture which these affidavits present can be considered as typical of the SS.

HERR PELCKMANN: Your Lordship, I have no further questions to put to this witness.

THE PRESIDENT: The Tribunal will adjourn.

[A recess was taken.]

DR. LATERNSER: Mr. President, may I ask for permission to put a question to the witness in order to clear up one point which came up during this examination? It will take about three minutes.

THE PRESIDENT: What is the point, Dr. Laternser?

DR. LATERNSER: I should like to ask the witness about a point which came up during the direct examination by the defendant's counsel for the SS and which concerns the guarding of concentration camps.

THE PRESIDENT: How does that affect the High Command?

DR. LATERNSER: There could be a connection through the higher official channels, a connection which might possibly incriminate the accused organization.

THE PRESIDENT: No, Dr. Laternser, the Tribunal reject your application.

Does the Prosecution wish to cross-examine?

MAJOR JONES: Witness, you were an SS man from 1933 on, were you not?

REINECKE: Yes.

MAJOR JONES: And during most of that time you were connected with the SS legal system?

REINECKE: Yes.

MAJOR JONES: Would a serious view have been taken in the Waffen-SS or the German Army about the murder of Jews by SS men?

REINECKE: I did not understand the question.

MAJOR JONES: I will repeat it. Would a serious view have been taken in the Waffen-SS or the German Army about the murder of Jews by SS men?

REINECKE: If the extermination of the Jews on Hitler's orders had been known in the SS, or as you say, in the Wehrmacht, I am certain that there would have been concern.

MAJOR JONES: If an SS man had murdered 50 Jews, would that have resulted in a death penalty being inflicted on him?

REINECKE: I cannot answer this question in simple words, because it touches on a basic problem.

MAJOR JONES: I want you to look at the document dated September 1939, which shows the tolerance of murder in the SS by the highest judicial authorities and the German Army. It is Document D-421, which will be Exhibit GB-567. The first page of the memorandum:

> "The Chief of the Army Judiciary announces by telephone. The Field Court-Martial of the Kempf Armored Division has sentenced an SS man of an SS artillery regiment to 3 years' imprisonment, and a military police sergeant major to 9 years' penal servitude for manslaughter. After about 50 Jews, who had been used during the day to repair a bridge, had finished their work in the evening, these two men drove them all into a synagogue and shot them all without any reason. The sentence is submitted to the Commander of the

3rd Army for confirmation. The proposal of the representative of the prosecution is capital punishment for murder."

Then there follow initials. Then there is a marginal note: "General Halder requests information on the decision of the Commander of the 3rd Army." Then purple pencil notes: "To the Adjutant of the Commander of Army III."

And on the next page you will see the course of this history: "Telegram . . . to the Oberstkriegsgerichtsrat (military judge of the fourth rank) attached to the Quartermaster General in Berlin . . . . SS Sturmmann Ernst is granted extenuating circumstances because he was induced to participate in the shooting by a corporal handing him a rifle. He was in a state of exasperation owing to numerous atrocities committed by Poles against persons of German race. As an SS man, he felt at the sight of the Jews the anti-German attitude of Jewry very deeply and therefore acted rashly as a hot-blooded youth. An excellent soldier not punished before."

And that is signed by Oberkriegsgerichtsrat (military judge of the third rank) Lipski.

And then there are purple pencil notes on the document: "To the Adjutant of the Commander-in-Chief of Army III," and a lead pencil note: "Telephone call from Oberkriegsgerichtsrat Dr. Sattmann to the effect that so far as has been ascertained the Chief of the Army High Command will not confirm either sentence." Then added, in lead pencil:

"The sentences have been dropped under the amnesty. Punishment was announced before the amnesty. Nine years' penal servitude for the police sergeant major changed to 3 years' imprisonment. Three years' imprisonment for SS man, unchanged. Confirmed by Army headquarters."

Now, that was a clear countenancing of mass murder by the judicial authorities of the German Army, was it not?

REINECKE: In my opinion this document represents, in the second part where it gives an explanation for the mild sentences on the two SS men, a personal opinion of Kriegsgerichtsrat Lipski, who as the presiding judge passed the sentences. Therefore, since I do not know other details of the case, I am not in a position to say whether the reasons which the presiding judge gives deviate from the facts or not.

MAJOR JONES: But—just for a moment: Do you appreciate that for the murder of 50 Jews—and if the facts as reported in this German document are true it could have been nothing but murder—there was, first of all, a finding of manslaughter? You as a lawyer will appreciate what I am implying. And secondly—that this Army judge passed a sentence of 3 years' penal servitude for the murder

of 50? He was one of your legal colleagues of the Army and I suggest to you that this is typical of the attitude of you—particularly the SS' and the Army's judicial authorities, to the murder of what you pleased to call subhumans.

REINECKE: May I say the following: A question of law as to whether the verdict is based on manslaughter or on murder is undoubtedly at issue here. The actual grounds which caused the judge to convict the men of manslaughter instead of murder are not indicated in the document. For that reason I cannot take a stand on the question put to me.

MAJOR JONES: But, you know, it is indicated perfectly clearly. The reason why it was reduced to manslaughter was that this man Ernst, being an SS man, was particularly sensitive at the sight of Jews, and therefore it was just a youthful adventure, that is the—that was operating in the judge's mind. You know it is perfectly clear. You . . .

REINECKE: I should like to say that as the document states, the prosecution in this case obviously asked for a verdict of murder and for the death sentence. The presiding judge did not, in his verdict, convict the men of murder but of manslaughter. According to the German penal law, the difference between manslaughter and murder is that murder is an action carried out after previous deliberation with the aim of killing a person, while manslaughter is an act of impulse, resulting in the death of a person. The judge, after considering the circumstances described here, based his verdict on this latter legal qualification.

MAJOR JONES: Witness, I am obliged to you for your dissertation on the difference between manslaughter and murder. I think the Tribunal is familiar with it. But, at any rate, the end of this story was that the Army commander-in-chief crossed the whole thing?

REINECKE: That is correct.

MAJOR JONES: The sentences were dropped under the amnesty. That is the end of this suit of murder by the Army judicial authorities—amnesty and pardoning of the whole thing.

I want you now to turn to another document so the Tribunal can judge how zealous the German authorities were in the pursuit of the SS crimes. It is Document D-926, to be Exhibit GB-568. This comes from an earlier period, not from the days when the Poles or the others who you said were responsible were operating. These were the pioneer days of the SS, 1933, when you joined them. This is a file relating to the deaths of prisoners in protective custody at the concentration camp of Dachau. It starts with a letter dated 2 June 1933, from the provincial court public prosecutor to the State

Ministry of Justice. It is headed: "Deaths of prisoners in protective custody at the concentration camp of Dachau." It relates to the Schloss, Hausmann, Strauss, and Netzger cases:

> "In accordance with my instructions, I had a lengthy discussion on 1 June 1933, with Police Commander Himmler in his office at the Police headquarters, Munich, about the incidents at the concentration camp of Dachau, which I have already reported to the Ministry of Justice separately. I particularly reported to him briefly, by showing the photographs from the investigation files, about the Schloss, Hausmann, Strauss, and Netzger cases, of which he appeared to have been informed already. I pointed out that particularly the four above-mentioned cases, in view of the result of the findings to date, offer good reason for strongly suspecting serious punishable actions on the part of the individual members of the camp guard and of camp officials, and that both the public prosecution and the Police authorities to whose knowledge these incidents have come, are under the obligation, under the threat of heavy punishment, to carry out the criminal investigation of the above-mentioned incidents without consideration for any persons whatsoever. . . ."

I don't think I need trouble you with the rest of that document. Document 2 is a letter from the provincial court public prosecutor to the State Ministry of Justice again. It is 11 August 1933. So you see, Witness, no action had apparently been taken from 2 June until 11 August. And then the provincial court public prosecutor, in the last sentence of that letter, after referring to the dossiers relating to Schloss, Hausmann, Strauss, and Netzger, says:

> "Should the dossiers not be required at present, I would request the return of these files for the purpose of examining whether the decree of 2 August 1933 regarding the granting of immunity from punishment has to be applied."

I need not trouble you with the third document, or the fourth. If the Tribunal turns to Page 5 of its copy, and if you, Witness, turn to Document 8, which is the next I wish to refer to—that is a report again, from the provincial public prosecutor to the State Ministry of Justice: "Death of the prisoner in protective custody, Hugo Handschuch, in Dachau Camp." Have you found that, Witness?

REINECKE: Yes, I have found it.

MAJOR JONES: I am reading from Page 5 of the English text:

> "Subject: Death of the prisoner in protective custody, Hugo Handschuch, in Dachau Camp.
>
> "The judicial autopsy ordered by me took place in Dachau on 23 September 1933."—I am reading from Page 5 of the English

text now.—"It showed that death was due to a brain injury owing to hemorrhage in the soft membrane and that this hemorrhage was caused by blows with a blunt instrument, which hit the skull particularly in the region of the left temple and the back of the head. In addition, profuse bleeding was established on the corpse round the left cheek, in the right shoulder and left upper arm regions, on the buttocks and the upper thigh and of the lower part of the left thigh—the results of blows on the body of the deceased with a blunt object, while alive. On the findings based on the post mortem, the preliminary medical opinion gave grounds for assuming outside responsibility.

"I intend to continue the further necessary search for the perpetrators in collaboration with the Political Police."

And it is brought to the attention, as you see, of the Prime Minister with a request to take note and forward to the Reich Governor in Bavaria. And then there is a notice given to the State Minister of the Interior.

Then Document 11, Page 9 of the English text—proposal made by the Minister of the Interior to quash the inquiry into the deaths of the protective custody prisoners, Handschuch, Franz, and Katz. Handschuch, you'll remember, Witness, was the subject of the autopsy which indicated outside responsibility.

This is a letter from Adolf Wagner to the Defendant Dr. Frank, the representative Nazi jurist. The letter, which has been in Court, is dated 29 November 1933.

THE PRESIDENT: What Dr. Frank do you refer to?

MAJOR JONES: That is the Defendant Frank, My Lord.

THE PRESIDENT: Yes, go ahead.

MAJOR JONES:

"The Commander of the Political Police in the Ministry of the Interior presented to you, on 18 November 1933, a proposal according to which the inquiry into the cases of the prisoners in protective custody, Hugo Handschuch, Wilhelm Franz, and Delvin Katz, should be quashed for State political reasons. In connection with this case you sent to me the liaison man of the State Ministry of Justice with the Bavarian Political Police, Public Prosecutor Dr. Stepp. Meanwhile, in a discussion with the Commander of the Political Police, Reichsführer SS Himmler, I have ascertained once more that by the pursuance of this inquiry the reputation of the National Socialist State would greatly suffer, because this inquiry would be directed against members of the SA and SS, and thus the SA and the SS, as the main pillars of the National

Socialist State, would be directly affected. For these reasons, I support the proposal of the Commander of the Political Police in the State Ministry of the Interior for quashing the inquiry presented to you on 18 November."

I don't think I need trouble with the rest of that letter. It states that the inhabitants of the concentration camp are almost exclusively criminal types. The next document, Document 10 of the German pile . . .

THE PRESIDENT: Mr. Elwyn Jones, the document you have just been reading from, which is on Page 9 of the English text, is dated 29 November 1933. Is that a misprint?

MAJOR JONES: No, My Lord, that is correct.

THE PRESIDENT: The document on Page 5, which you read before, from the public prosecution, is dated 26 September 1936. Is that correct?

MAJOR JONES: No, My Lord, that is a misprint and I should have called Your Lordship's attention to it. That should be 1933, My Lord, and I am much obliged.

THE PRESIDENT: That is Page 5. In referring to the document, you should state that the pages which you did not refer to, Pages 3 and 4, show that the other dossiers, in connection with the public prosecutor, Provincial Court, Munich, were apparently lost and were not forthcoming and that inquiries were going on about them until 1935.

MAJOR JONES: Yes, My Lord. Much obliged. I was trying to deal with the essential contents of the file.

THE PRESIDENT: Go on then.

MAJOR JONES: I want you, Witness, to look at Page 6 of the English text and Document 10 of your file. That is a memo from Dr. H. Frank, the defendant, dated 2 December 1933, to the Prime Minister, and the subject is "Quashing of criminal proceedings":

"A merchant's wife, Sophie Handschuch, of Munich, in a written accusation received by the public prosecution at the Provincial Court, Munich II, on 18 September 1933, stated that her son, Hugo Handschuch, taken into protective custody on 23 August 1923"—that should be 1933—"died of heart failure in Dachau Camp on 2 September 1933. In the inquest certificate, heart failure following on a concussion of the brain was given as the cause of death. The body was not shown to the relatives and was released only after great difficulties on condition that the coffin would not be reopened. The lid of the coffin was so firmly nailed down that it was impossible

to reopen it. The writer asked that the coffin be opened and a judicial post mortem held, as she wanted the body identified and the cause of death established.

"In order to clear up the matter, the public prosecutor at the Provincial Court, Munich II, at first personally questioned the plaintiff, Sophie Handschuch, and the fiancée of the deceased, Thea Kink. From their evidence, the assumption seemed justified that already on the day of his arrest, on 23 August 1933, Handschuch was badly mauled in the Braune Haus in Munich; and in connection with the further established fact that the relatives of the deceased were expressly refused permission to view the body, sufficient grounds were given for the suspicion that Handschuch did not die a natural death. In order to establish the cause of death beyond all doubt, the body was exhumed in Dachau on 23 September 1933, and a judicial autopsy carried out on the orders of the public prosecutor. It showed that death was caused by injury to the brain, as a result of a hemorrhage of the soft membrane of the brain and that this hemorrhage originated from blows with a blunt object which hit the skull particularly on the left temple and at the back of the head."

Then there follow further details of the autopsy which have been given in another document I have read. The findings of the judicial autopsy gave ground for assuming outside responsibility.

Paragraph II:

"In the forenoon of 19 October 1933 the public prosecution at the Provincial Court, Munich II, was informed by telephone through the Bavarian Political Police that in the afternoon of 17 October 1933, Wilhelm Franz, of Munich, a prisoner in protective custody, born on 5 June 1909, and that in the night of 17 to 18 October 1933, Dr. Delvin Katz, of Nuremberg, a prisoner in protective custody born on 3 August 1887, hanged themselves in their solitary confinement cells in Dachau Concentration Camp. The public prosecution on the same morning ordered a legal examination to be held in the camp, followed by a post mortem. The corpses had already been removed from the cells and were lying on stretchers in a locked shed of the camp. With the exception of the feet they were completely stripped. In Franz' cell fresh blood spots and splashes were observed on the plank bed."

And then it goes on to say that a judicial autopsy was ordered on 20 October. In the next paragraph there is the autopsy:

"The autopsy gave grounds for a well-founded suspicion that in the case of both corpses force by an outside hand had been applied. According to the preliminary opinion of both coroners

(Landgerichtsarzt Dr. Flamm and Gerichtsarzt Dr. Niedenthal) death by suffocation, as a result of strangulation and throttling, was established in both cases. The strangulation marks found on the neck do not correspond to observations in the case of persons hanged. In respect to Franz's body, it is also stated in the preliminary opinion that fat embolism is not, prima facie, to be excluded as a contributing cause of death. On this corpse fresh weals were found on the thick head of hair and especially on the body and the arms, accompanied by profuse hemorrhages and ruptures of the fat tissue. Besides the injuries on the neck, the body of Katz showed also bruises, abrasions, and cuts of the skin.

"At the examination, the public prosecution had demanded the production of both belts with which Franz and Katz had allegedly hanged themselves; they could not be handed over at once. The Dachau lower court had ordered the confiscation of the belts in accordance with the application. Until now, the objects confiscated had not yet been received by the public prosecution."

Then Paragraph III:

"In each case I informed the Ministerpräsident, and through him, the Reichsstatthalter in Bavaria, as well as the State Minister of the Interior, of the public prosecution's reports.

"In a letter of 29 November 1933, addressed to me, the State Minister of the Interior proposed that, for State political reasons, the inquiry pending at the public prosecution of the Provincial Court, Munich II, into the death of Hugo Handschuch, Wilhelm Franz, and Delvin Katz, former prisoners in protective custody, should be quashed. As a reason it is pointed out that the conducting of investigations would seriously injure the prestige of the National Socialist State, since these proceedings would be directed against members of the SA and SS, whereby the SA and the SS, as the chief pillars of the National Socialist State, would be immediately affected."

And then Frank goes on to give an opinion in law that the Reichsstatthalter in fact has the right of pardoning. He states that—in the last part of the last paragraph but one:

"The Constitutional Deed of the Free State of Bavaria of 14 August 1919 forbade the quashing of criminal investigations. The law of 2 August 1933 regarding the quashing of criminal investigations removed the ban of quashing. According to the Bavarian State law at present valid, the legal possibility therefore exists of quashing individual criminal

proceedings by means of an administrative act in the form of a pardon."

And then he states that this right is vested in the Reich Governor of Bavaria, and goes on to suggest that "in view of this legal position the proposal of the State Minister of the Interior be submitted to the Council of Ministers."

The next document, Page 10 of the English text, Document 12 of the German text, indicates that the Council of Ministers was not prepared to countenance the quashing. Page 10 of the English text, My Lord—and it states:

"The proposal of the State Minister of the Interior that the inquiry pending at the public prosecution at the Provincial Court, Munich II, into the death of the prisoners Handschuch, Franz, and Katz, who were in protective custody, be quashed was the subject of a debate during the meeting of the Council of Ministers of 5 December 1933. As a result, the State Minister of Justice communicated the following to the undersigned official:

" 'The criminal proceedings regarding the happenings in the Dachau Concentration Camp are to be continued with all determination. The facts are to be cleared up with the utmost speed.' "

Then there are various instructions with regard to the inquiries.

The next step of this story is Document 12 of the German file, Page 11 of the English text:

"Presented to the State Minister with the request that he take note. The note of the first public prosecutor, Dr. Stepp, regarding the carrying out of his instructions is attached with the request that note be taken. . . .

"By order of Ministerial Counsellor Döbig, I communicated to the Reichsführer SS Himmler the decision taken yesterday by the Council of Ministers concerning the cases of Handschuch, *et cetera*. The Reichsführer SS told me that the matter chiefly concerned the Chief of Staff of the SA, Reich Minister Röhm. He (Himmler) had to discuss the matter with Röhm first."

Then Röhm gives certain instructions which this correspondent, Dr. Stepp, writes down from memory:

"The Dachau Camp is a camp for prisoners who were apprehended for political reasons and are kept in protective custody. The incidents concerned are of a political nature and must be decided under all circumstances first of all by the political authorities. To my mind they are not suited to be dealt with by the legal authorities. This is my opinion as Chief of Staff

and also as a Reich Minister who is interested in the Reich not suffering politically because of the proceedings in question.

"I shall get the Reichsführer SS to issue an order that no investigating authorities may enter the camp for the time being and that people in the camp may not be interrogated for the present."

Then there is a note:

"The Chief Prosecutor, Munich, was instructed by a directive from the Minister to refrain for the time being from making an application for the opening of preliminary investigations."

Then follows the next document, Document 13, a letter to the public prosecution on the death of these men Franz and Katz:

"With regard to the above-mentioned matter I have, as instructed, on 12 July 1934 requested the Bavarian Political Police to clear up the matter further in conjunction with the commander's office of the Concentration Camp Dachau, and to endeavor to find out the persons who are suspected of having been the culprits. In this request I mentioned also that I have not yet received the legally confiscated instruments of suicide (belt and braces) of the dead men.

"The Political Police have apparently transmitted the files without any written direction to the political department of the Concentration Camp Dachau. . . ."

The first paragraph of this letter reads:

"The latest application by the Public Prosecution, Munich II, for production of evidence shows what far-fetched means are employed in order to saddle the Concentration Camp Dachau with allegedly perpetrated crimes."

In the second paragraph of the letter regret is expressed that the two dead men were able by their suicide to escape impending punishment for smuggling letters. The third paragraph refers to the confiscation and reads:

"After the two corpses had been dissected according to law and had been released, the commander's staff had no further interest in the preservation of the instruments with which the men had hanged themselves. The commander's staff do not belong to those, that loathsome type of cultured people, who preserve such articles as souvenirs, as was done in America in the Dillinger case."

The letter is signed on behalf of the camp commandant by SS Obersturmbannführer Lippert. Then there is a request by the public prosecution for action.

In the next letter there is a reference to this letter from the camp commandant of Dachau, which shows that the request of the

Oberstaatsanwalt arose from the impartial observation of his official duty and then the file closes with this entry: "Munich, 27 September 1934, Public Prosecution." It is a letter from the Oberstaatsanwalt to the Generalstaatsanwalt at the Court of Appeals Munich:

"Subject: Death of the prisoners in protective custody, Wilhelm Franz and Dr. Katz, in the Concentration Camp Dachau.

"I have quashed the proceedings, as the investigations have not produced sufficient grounds for the assumption of outside guilt in the deaths of the two prisoners in protective custody."

MAJOR JONES: Well now, Witness, I have taken some time to read that document. That is a characteristic illustration of the fact that the SA and SS abominations in the camps were protected by the highest authorities of the Third Reich, is that not so?

REINECKE: This document is from the year 1933, at a time when the Concentration Camp Dachau was not manned exclusively by SS men. The document indicates that the prosecution of the Provincial Court in Munich suspected, for given reasons, that some persons in protective custody had been murdered.

MAJOR JONES: Are you suggesting that conditions improved after the SS men took complete charge of running the camps?

REINECKE: I want to point out that this document contains individual cases of the year 1933. But conclusions on the general conditions in concentration camps, particularly in the coming years, cannot be drawn from the document.

MAJOR JONES: Did you know that the Waffen-SS was making quite a profitable business out of killing people in concentration camps? Did you know that? Did you know that?

REINECKE: No.

MAJOR JONES: I want you to look at the Document D-960, which will be Exhibit GB-569. It is a very short document, this one, it is from—it is headed:

"Waffen-SS, Natzweiler Concentration Camp, Commander's office, 24 March 1943.

"Bill to the Security Police and SD, Strasbourg.

"For the 20 prisoners executed and cremated in this concentration camp, costs amounting to 127,05 Reichsmark arose. The Commander's office of the Natzweiler Concentration Camp requests the early payment of the above-mentioned sum."

The tariff for killing was very low in Natzweiler, wasn't it—6 marks 38 pfennigs for each dead man? Did you know that moneys were paid to the funds of SS for activities of that kind?

REINECKE: No. And as I understand it, this document does not show that at all. The concentration camp command here uses

the stamp "Waffen-SS," but in this connection I must refer to what I said yesterday, that the term "Waffen-SS" is misleading insofar as the concentration camp organization was an independent police institution. This document seems to support my statement, since it shows that this horrible bill here was sent to the Security Police, that is, again to an executive organ. The Waffen-SS . . .

MAJOR JONES: Just a moment. Assuming that the Security Police paid this bill, where would the money have gone to? It would have gone back to Natzweiler. What would have happened to it? Would it have been credited to the funds of the Waffen-SS or not?

REINECKE: The commands of the concentration camps, including Natzweiler, settled their accounts with the Reich, not with the Waffen-SS. I cannot say how this money was used and for what purposes it was spent, because . . .

MAJOR JONES: Do you know—you have no knowledge of the financial arrangements of these camps *vis à vis* the Waffen-SS, have you? If you have not that suffices for me for the moment.

REINECKE: No, no. From my activity in the head office "SS Courts" I happen to know a little about the economic control of the concentration camps, and as to this point here, I know that the commands of concentration camps settled their accounts directly with the agencies of the German Reich and had no connection at all with other treasuries or agencies of the Waffen-SS as such.

MAJOR JONES: If you please. Now you said in your testimony that the guards in concentration camps had not committed crimes, that whoever else was responsible, Pohl and one or two others, certainly it was not the SS guards. Were you serious when you said that, Witness?

REINECKE: In order to avoid misunderstanding, I should like to make it clear here that when I spoke of guards, I meant only those persons who guarded a concentration camp from the outside in contrast to the personnel of the concentration camp who were employed in the command and on the command staff; that is to say, people who had the control within the camp.

MAJOR JONES: But both those categories of guards were SS men, were they not?

REINECKE: As I have already said, they belonged to the so-called nominal Waffen-SS without having anything to do with it organically.

MAJOR JONES: Well, I shall return to that point in a moment.

First of all, I want you to look at Document D-924, which will give you a picture of the humanity and ethical attitude of SS guards. I am using a phrase which you used yourself *vis à vis* the

SS. That is Exhibit GB-570, My Lord. It is a report this time from a Dutch source of the evacuation of the Rehmsdorff Camp to Theresienstadt.

The first page is a statement by Peter Langhorst, who says:

"I am an ex-political prisoner and I have been detained in various prisons and concentration camps, finally in the Rehmsdorff Camp.

"At the approach of the Allied armies this camp was evacuated and the prisoners, about 2,900 men, were put on transport from Rehmsdorff to Theresienstadt.

"Mostly these prisoners were Czechs, Poles, Russians, and Hungarian Jews, while there were only a few Dutchmen among them.

"Of these prisoners only some 500 men actually reached Theresienstadt; the others were simply killed off during the transport by the so-called 'shot in the neck.'

"The corpses were thrown into mass graves which were filled up afterward."

Then—I need not trouble you with the rest of the statement, but you see a further statement with regard to that matter by Baron Van Lamsweerde of Amsterdam, who was on this transport, who says that—at the end of the second paragraph:

"Finally, on 12 November 1944, I was imprisoned in the Concentration Camp Rehmsdorff where I stayed until my escape on 20 April 1945. At the approach of the Allied Forces, the camp at Rehmsdorff was evacuated in great haste and the political prisoners of this camp were transported to the Theresienstadt Camp.

"At first the prisoners were transported by train and in goods vans. We arrived by train at Marienbad, where, for causes I do not know, we had a delay of about one week. The vans with the prisoners were kept standing at the station. In the course of that week Allied bombers attacked the Marienbad station and in the confusion some 1,000 prisoners escaped into the surrounding woods. Naturally the entire local service (the SS, Volkssturm, and Hitlerjugend) was set to work to recapture the escaped prisoners, and practically all prisoners, who of course wore their camp clothes and could easily be recognized, were recaptured. These prisoners, about a thousand men, were led back in groups to Marienbad station and there they were killed by the SS guards by a shot in the neck. As both engines of the train had been wrecked during the air attack, the prisoners had to walk all the way from Marienbad to Theresienstadt. Many among them were unable to go so far, and fell down along the road,

totally exhausted; without an exception these prisoners were murdered by the guards by a shot in the neck. That evening their bodies were removed by lorry and buried in mass graves in the woods."—And he says he thinks that he could identify where it was.—"I am fully prepared to assist in tracing them. When the transport started I heard the SS guards saying that the total number of prisoners amounted to 2,775. Only some 500 of these prisoners reached Theresienstadt. The others were murdered during the transport. Near Lobositz, about 7 kilometers from Theresienstadt, I myself escaped. The leader of the transport was SS Oberscharführer Schmidt, one of the hangmen of Buchenwald, who also there behaved in a most scandalous way toward the prisoners, and who was known to be a sadist."

Do you still say that the SS guards betrayed the characteristics of decency?

REINECKE: I should like to emphasize that I did not say that the SS guards had the characteristics of SS members. I said that our investigations showed that the actual crimes in the concentration camps were committed by members of the commands and that we found no evidence that the guards had any part in them, and . . .

MAJOR JONES: Then let me show you—let me show you another document, the Document D-959—it will be Exhibit GB-571—which is a report to the Ministry of the Interior of the Czechoslovak Republic. I want to turn to Page 3 of the report:

"Crimes committed by the members of the Allgemeine SS and the Waffen-SS.

"The crimes committed by the members of the SS troops against the Czechoslovak and foreign citizens on the territory of the Czechoslovak Republic . . ."

THE PRESIDENT: Mr. Elwyn Jones, isn't it rather late to put in documents of this sort, which are general reports by the governments of Allied countries? The case has been already fully made by the Prosecution and to put in a new document of this sort, which is only a report of an Allied country, seems to the Tribunal to be an unusual course to take.

MAJOR JONES: With great respect, My Lord, I submit that the Prosecution is entitled to put in documents of this kind in rebuttal of the sort of testimony that this witness is giving. The conception that a witness should solemnly say that SS guards committed no atrocities was one which certainly did not occur even to the Prosecution, and in face of testimony of that kind I submit that the Prosecution is well entitled to put in documents which do not deal with individual cases, which might possibly be objectionable

to the Tribunal, but with the whole mass of testimony. I submit that until the very last moment the Prosecution is entitled to put in such documents, regrettable though it is, perhaps, that they have not been put in before, but I do submit that the Prosecution is entitled to put them in. If Your Lordship pleases, if I might add a further comment to Your Lordship's inquiry: the Defense have, after all, produced over 100,000 affidavits and I do submit that in these circumstances, in view of that mountain of evidence, it is only right that there should rest upon the record the authority of statements submitted on behalf of the Prosecution.

THE PRESIDENT: What is your submission, with reference to the construction of Article 21, with reference to this document?

MAJOR JONES: If Your Lordship pleases, I submit that the terms of Article 21 make it mandatory upon the Tribunal to accept reports of this kind by governments which are submitted by the Prosecution.

THE PRESIDENT: Which are the special words to which you refer?

MAJOR JONES: The second sentence:

> "The Tribunal... shall also take judicial notice of official governmental documents and reports of the United Nations, including the acts and documents of the committees set up in the various Allied countries for the investigation of war crimes, and the records and findings of military or other tribunals of any United Nations."

Now this document, My Lord, is—it has a certificate from the Czechoslovak Minister of the Interior on the face of it, certifying that it is a state document within the meaning of Article 21, and it bears the signature of the Minister of the Interior himself, so that I submit that quite clearly within the terms of Article 21 it is properly admissible and that in that respect the Tribunal should accept it.

THE PRESIDENT: Was there any committee or commission which drew up this document?

MAJOR JONES: It is a report of the Czechoslovak Ministry of the Interior itself; it is a report of the State Department.

THE PRESIDENT: Report to whom?

MAJOR JONES: Furthermore, My Lord, my learned friend, Mr. Griffith-Jones, draws my attention to Article 19 of the Charter:

> "The Tribunal shall not be bound by technical rules of evidence. It shall adopt and apply to the greatest possible extent expeditious and non-technical procedure, and shall admit any evidence that it deems to have probative value."

I do submit that even if you were to find, and I find it hard to think that you would, that this is not a document within the meaning of Article 21, it is admissible under Article 19.

THE PRESIDENT: Yes. Now, do you want to say anything, Dr. Pelckmann?

HERR PELCKMANN: I believe, Your Lordship, the decision of the Tribunal on this document should be the same as that on the two documents which we attempted in vain to introduce yesterday. Whether this document falls under Article 21, I cannot judge; the Tribunal will decide that. But I refer to the other point of view which Your Lordship has already mentioned. It is very late to submit these documents now. Article 21 can only be interpreted to mean that such documents can be submitted during the presentation of the case by the Prosecution. The Prosecution case is now closed, and documents can only be introduced by submitting them to a witness; but since there may be hundreds, perhaps thousands of these cases, the Defense must be given an opportunity to comment on them. It is not a question of testing the credibility of the witness, but it is actually a question of new evidence being presented by the Prosecution, and the Defense must have an opportunity of answering it. I do not believe that this is the intention of Article 21, otherwise the Trial would be extended indefinitely.

THE PRESIDENT: The Tribunal will adjourn and we will sit again at 2 o'clock.

[The Tribunal recessed until 1400 hours.]

Afternoon Session

THE PRESIDENT: Mr. Elwyn Jones, the Tribunal will take judicial notice of the document which you were submitting under Article 21. But they do not think that you need deal with it at great length.

MAJOR JONES: If Your Lordship pleases. The Document D-959 will be Exhibit GB-571.

[The witness Reinecke resumed the stand.]

Witness, have you any knowledge of the part played by SS units in the arrest and ill-treatment of the students of Prague on 17 November 1939?

REINECKE: No. About that subject I cannot testify, as the fact of their participation is now becoming known to me for the first time.

MAJOR JONES: You had no knowledge of the participation of the 6th SS Totenkopf Standarte in that matter, did you? I am referring to . . .

REINECKE: No.

MAJOR JONES: I am referring, My Lord, to an entry in the previous Czechoslovak report, USSR-60.

[Turning to the witness.]

You say you had no knowledge of that? This report . . .

REINECKE: No, I had no knowledge.

MAJOR JONES: This report refers further to reprisal measures against civilians suspected of contact with the partisans, in which the SS took part. Do you have any knowledge of SS troops taking part in reprisal measures against civilians?

REINECKE: I can testify to that insofar as it is known to me in which manner the Waffen-SS was being employed. I know that the Waffen-SS—and in this case it can only be the Waffen-SS which is meant—was fighting at the front.

MAJOR JONES: I just want you to look at the last paragraph but one in Paragraph 2, Page 4 of Document D-959, Page 4, the paragraph—it is the fourth paragraph down in the English text.

> "On 5 May 1945, after having plundered the village of Javorisko in the district of Litovel, the SS burned it down. During this execution the SS troops shot in the nape of the neck or killed in the burning houses all the male inhabitants of the village from the age of 15 to 70 years. Women with children, after having been ill-treated, were driven away. The execution, at which 38 men lost their lives, took place

because the inhabitants of the village were suspected of hiding partisans."

Have you any knowledge of that action or of actions of that kind that the SS took part in?

REINECKE: No. Such actions never became known to me. Obviously, we are here concerned with the last fight for Prague.

MAJOR JONES: I want you to turn to some further evidence about the ill-treatment by SS guards of transports of prisoners from concentration camps. The fifth paragraph on Page 5 of the report refers to 312 persons being beaten to death or shot, and their bodies buried in a coal pit. And you see it stated there that the beatings and killings were done by SS guards. It is very much like the Dutch report, is it not? And then there follows in the last section, crimes committed during the Prague revolution in May 1945, further accounts of SS atrocities.

Now, Witness, I want you to look at a new Document, D-878, which will be GB-572, which is a report from the Statistical—the Scientific Statistical Institute of the Reichsführer SS on the composition of the SS. I want you to look, if you will, at the third page of the account, that is a page marked "Page 1." That sets out the—I am sorry, My Lord, I have not a translation of this, but I think the entries will speak for themselves. They are quite clear. That is headed "Total strength of the SS as on 30 June 1944." You will see it shows "Allgemeine SS" excluding—and the translation, I think, is, excluding those members who, at the moment, are serving as reserves of the Waffen-SS, "Nicht einberufen." Total called up 66,614.

THE PRESIDENT: 64,000.

MAJOR JONES: 64,000. Called up in the Wehrmacht, 115,908. Called up to the labor front, 722. In miscellaneous duties, 19,254, a total of 200,498 of the Allgemeine SS. Now, can you tell the Tribunal whether those "not called up" among the 64,000 odd were performing police duties, or were some of those performing police duties?

REINECKE: In my view the figures which are contained in the document refer to members of the General SS who were neither called up nor were carrying out any other type of activity—in other words, who were following their civilian occupations at home, that is to say, who were used in economic life.

MAJOR JONES: The last category of 19,254 "on miscellaneous duties," were those people who were forming the personnel of the Einsatzkommandos?

REINECKE: That is absolutely out of the question, because the personnel of the Einsatzkommandos only consisted of a few hundred

men. The conception of the "sonstiger Einsatz" (on miscellaneous duties) must refer to some other function which I cannot define at the moment.

MAJOR JONES: Well, now, you see that that page shows the total in the Waffen-SS of 594,443. Now I want you to turn to Page 24 of this report.

THE PRESIDENT: Mr. Elwyn Jones, what is the final total described as?

MAJOR JONES: The total SS total 794,941.

THE PRESIDENT: Yes, but what does the second German word there mean?

MAJOR JONES: "Insgesamt"—"altogether," My Lord.

THE PRESIDENT: "Altogether." I see.

MAJOR JONES: You turn to Page 24 and you will see that the—that total of members of the Waffen-SS of 594,443 is divided up into various categories: There are first, the Feldtruppenteile, which are field units, 368,654. Then the next is, I understand, the recruiting staff, 21,365. The next category, training and reserve, 127,643. The schools, 10,822. Then other units and offices directly subordinate to the SS leadership head office, 26,544. And then in the head offices, 39,415, making the grand total of 594,443. Now, those—that entry of 26,544, other units and offices directly subordinate to SS leadership head office, who were those men? Were they the personnel of the Einsatzkommandos?

REINECKE: I beg to repeat the answer I have just given you. That number cannot refer in any way to the personnel of these Einsatzkommandos because the personnel of the Einsatzkommandos had nothing to do with the SS itself, but came from various departments of the executive, in particular from the Police. This figure of 26,544 members of the SS must refer to members of offices and units who were not employed at the head offices, but who, on the other hand, were not fighting at the front either, but who were in the Reich territory with some...

MAJOR JONES: Witness, will you next turn to Page 28 of this document, which shows how the 39,415 described on Page 24 as being members of the head offices of the Waffen-SS are employed. It starts:

SS Main Office, 9,349; Waffen-SS men engaged in the SS Economic and Administrative Main Office—I beg your pardon, the second line—Waffen-SS men engaged in the Race and Resettlement Main Office of the SS, 2,689. That was the office headed by Himmler which yesterday you said—you said had nothing to do with the SS, the Waffen-SS, at all. And then:

Third, the SS Economic and Administrative Main Office, WVHA that is, is it not—24,091 Waffen-SS men. Personal Staff of the Reichsführer SS, 673. SS Personnel Main Office, 170; Main Office SS Courts, 599; Office of the SS Obergruppenführer Heissmeyer, 553; Reich Commissioner for the Strengthening of German Folkdom, 304; Reich Commissioner for the Strengthening of German Folkdom, Die Volksdeutsche Mittelstelle Office, 987. Making a total of 39,415.

That makes it clear, does it not, that Waffen-SS men were engaged in all this hideous network of Himmler's machinery of terror, was it not?

REINECKE: I do not believe that that is shown by this document. Yesterday I described in detail that the various head offices did not have a unified supreme command. If, for instance in this case, members of the Waffen-SS appear in the various head offices, then this is due to the fact that the employees were drafted into the Waffen-SS during the war because in that way it became unnecessary to claim them as indispensable, and they could thus be kept out of the clutches of the Armed Forces.

MAJOR JONES: All those men were carried on the strength of the Waffen-SS; they were members of the Waffen-SS; they wore Waffen-SS uniforms, and they were paid by the Waffen-SS. That is so, is it not?

REINECKE: That may well be, but that has a different significance, insofar as that did not make them members of the original organization but, as was often the case in wartime, they merely donned the uniform and were paid accordingly. If I pick out, for instance, on Page 28 of this document, the SS Economic and Administrative Main Office, with 24,091 alleged members of the Waffen-SS, I have to say that this can only refer to guards in concentration camps, and it shows that these men, as so-called nominal members of the Waffen-SS, were merely detailed to the Economic and Administrative Main Office, but had in reality nothing to do with the Waffen-SS.

MAJOR JONES: If Your Lordship pleases, I submit that the document speaks for itself, and I have no further questions.

THE PRESIDENT: The Tribunal would like to have translations of the documents, of these two documents that you have referred to.

MAJOR JONES: If Your Lordship pleases, they will be put in.

MR. COUNSELLOR SMIRNOV: My Lord, I do not wish to subject the witness to a detailed examination; I would like merely to be allowed to put one single question to him upon a matter which he dealt with yesterday and in connection with a very short document which was mentioned yesterday.

THE PRESIDENT: Yes. You may do so.

MR. COUNSELLOR SMIRNOV: Witness, did I understand you yesterday to say that there were honorary members of the SS?

REINECKE: Yes.

MR. COUNSELLOR SMIRNOV: You asserted that this quality was only conferred in order to allow them to wear a uniform? Did I understand you correctly?

REINECKE: Yes.

MR. COUNSELLOR SMIRNOV: I would like to show you a letter to Himmler from one of those people whom you named yesterday as honorary members of the SS. I would like to read this very short document into the record. I quote: "22 July 1940. Berlin W-8, Wilhelmstrasse 73."

THE PRESIDENT: Is it 1944 or 1940?

MR. COUNSELLOR SMIRNOV: 1940, My Lord. It is a new document which bears the Number USSR-512. It was found by the Red Army in the Berlin archives. It will be submitted now to the Tribunal. I quote:

> "My dear Himmler: I was highly pleased to learn of my promotion by the Führer to the rank of Obergruppenführer of the SS. You know my attitude to your SS and how greatly I admire their development, which was the fruit of your own work. I shall always consider it a special honor to belong to this proud corps of the Führer, which is of decisive importance for the future of our Great German Reich. I remain your faithful friend, Joachim Ribbentrop."

MR. COUNSELLOR SMIRNOV: Tell me, Witness, does not the first sentence of the document testify to the fact that the members of the SS whom you called honorary members were actually promoted by Himmler according to his estimation of their activity?

REINECKE: This document, in my opinion, proves something which I tried to describe yesterday. I said that it is typical for the honorary leaders that they did not actually come from the SS as such; that is to say, they had not performed any duty in the SS for many years like all the other men, but who at some stage and quite suddenly were awarded a high rank and given SS uniforms, without in . . .

MR. COUNSELLOR SMIRNOV: No, Witness, I am asking you something quite different. You are not answering my question. I asked you if it was not a fact that Himmler promoted the so-called honorary members according to his estimation of their activity? From the SS point of view, naturally.

REINECKE: Yes, that is correct, insofar as it was typical of Himmler's policy that personalities who were holding certain positions of power were granted the right to wear the SS uniform, and those are the honorary leaders.

MR. COUNSELLOR SMIRNOV: I have no further questions to put to the witness, Mr. President.

DR. ALFRED SEIDL (Counsel for Defendant Frank): Mr. President, this morning the Prosecution submitted a Document D-926, also numbered GB-568. The subject of that document is files of the Bavarian Ministry of Justice, which deal with the death of prisoners of war in the concentration camp at Dachau. I ask for permission to read into the record Figure 12 of that document now, which was not read out by the Prosecution.

As reason for my application, I should like to explain that this is the same document which I applied for 6 months ago and which could not be found.

The portions of this document read by the Prosecution may create the impression that the statement by the Defendant Frank in the witness box with reference to this question may not be correct. Figure 12, however shows . . .

THE PRESIDENT: Whom are you applying on behalf of—Frank?

DR. SEIDL: I make the application on behalf of the Defendant Frank.

THE PRESIDENT: I think on Page 10 of the English copy, and with the Heading 12, the two top paragraphs were read this morning.

DR. SEIDL: Only the two first sentences of Paragraph 2 were read. The remaining sentences were not read. Paragraph 3 was not read either.

THE PRESIDENT: Very well, Dr. Seidl, you may read what you want to read.

DR. SEIDL: I shall then quote under Figure 12 a note for the files:

"Concerning: Dachau Concentration Camp.

"I. Memorandum. The proposal of the State Minister of the Interior to quash the inquiry now pending at the public prosecution office at the Provincial Court, Munich II, into the death of the prisoners Handschuch, Franz, and Katz, who were in protective custody, was the subject of a discussion during the meeting of the Council of Ministers on 5 December 1933. As a result, the State Minister of Justice communicated the following to the undersigned official:

"The criminal proceedings regarding the happenings in the Dachau Concentration Camp are to be continued with all determination. The facts are to be cleared up with the utmost speed. If necessary the Landespolizei are to be brought in to assist. Any attempts to hush up the case must be opposed by all available means.

"The Oberstaatsanwalt (public prosecutor) at the Provincial Court, Munich II, was instructed, in accordance with the decision of the Council of Ministers, to continue the proceedings immediately with all energy, and try to clear up the incidents as soon as possible. He will apply for preliminary court investigations and see to their being completed rapidly—in the case of Franz and Katz immediately, and in the case of Handschuch after the arrival of the documents from the Political Police, who have been requested to return them. He has been instructed to keep the State Ministry of Justice informed about the course of the proceedings and to produce the files with an attached report about the result after the closing of the preliminary investigation, stating also what further action is intended. The public prosecutor at the Oberlandesgericht (Court of Appeal) in Munich has been notified and instructed that he also for his part is to pay particular attention to the proceedings. The preliminary investigations will probably be conducted by Landgerichtsrat (Provincial Court Counsellor) Kissner, competent for the district of Dachau.

"The liaison officer with the Political Police, I. Staatsanwalt (first public prosecutor) Dr. Stepp, was instructed, according to orders, to communicate the decision of the Council of Ministers to the Chief of the Political Police, Himmler, and to the Chief of the Bavarian Political Police."

DR. SEIDL: Thank you, Mr. President.

HERR PELCKMANN: Witness, once again, I shall come back to the document which has just been read out by my colleague Seidl. When this document was put to you, you pointed out that this was an instruction concerning an incident which took place very early in 1933. During your interrogation, you, yourself, said that in the course of your investigation in later years you discovered that murders had been hushed up by means of false reports on the facts. For that reason I would like to ask you once more: Is it correct that, when in the course of your investigation in later years you discovered cases of concealment, you fought against such procedure?

REINECKE: That was precisely one of our main activities. We had to counter these attempts of concealment which cropped up everywhere in the course of current proceedings. Repeatedly, in

many different camps, we were able to ascertain by our commissions that such cases of concealment did exist, and in those cases we at once called the guilty party to account.

HERR PELCKMANN: Could your SS legal authorities take proceedings against such crimes already in 1933?

REINECKE: In 1933 there was not yet an SS jurisdiction, that is, no penal jurisdiction. Responsibility for carrying out such criminal proceedings lay with the criminal prosecution authorities of the general justice, and this becomes apparent from this document. It was their task to bring to judgment the guilty men responsible in such cases.

HERR PELCKMANN: A report, a document, has been put before you, Document D-924, GB-570, which refers to the horrible shooting of deportees by the escorts. You commented upon that and I noticed that you could not quite finish your statement, because I believe you wanted to add some details reflecting your personal impressions. Would you like to do that now?

REINECKE: Yes. I wanted to say that this deals with a convoy of prisoners and the accompanying escorts, and that my own statements about the guards referred exclusively to those in the camps, that is to say, those guards who were on duty outside the camps on watchtowers, *et cetera,* and who had to return to their billets after duty. These men, therefore, had nothing to do with the internal affairs of the camps. Presumably such transports were carried out by members of the commanders' staffs.

HERR PELCKMANN: From the document containing the statistics regarding the strength of the SS on 30 June 1934—and I regret that the document number is not visible on my copy—I should like to put to you the figure of 794,000 members of the SS in 1944. Witness Brill yesterday told us higher figures, approximately 900,000 to a million. Since the witness Brill is no longer present, I should like to ask you if you are sufficiently informed as to whether the difference may be attributed to the fact that the figure mentioned by witness Brill also included the dead, those who had been killed, and therefore the figure given by witness Brill was not an incorrect statement on his part.

REINECKE: I have the knowledge necessary to answer the question because, working in the legal department, I constantly had to concern myself with the strength of the SS. I know that the statement by witness Brill corresponds to the facts. It is a fact, as stated by defendant's counsel, that the figure given by witness Brill includes the losses suffered by the Waffen-SS. The figures contained in this document must be increased by the number of killed in the course of the war, both of men and leaders, either low-ranking

or senior, of the Waffen-SS, in order to draw conclusions regarding the real strength of the Waffen-SS.

HERR PELCKMANN: On Page 28 of the same document you have the numbers in the various offices. The final total is 39,415 members of the SS. Do you still have the document before you, Witness?

REINECKE: No, unfortunately I have not.

[The document was handed to the witness.]

HERR PELCKMANN: You said that the figure representing the SS Economic and Administrative Main Office, which was responsible for the administration of the entire concentration camp system, was 24,091 persons. Does this mean persons who were carrying out purely clerical work? Were there in fact 24,000 clerks in that department? Or what does that figure mean?

REINECKE: The SS Economic and Administrative Main Office was a much inflated organization, which above all, as its name indicates, had at its disposal a large organization of firms and industries. All the employees of those industries which were formally attached to the Economic and Administrative Main Office were formally drafted into the SS in order to make them "uk.," that means to relieve them from compulsory service in the Armed Forces.

HERR PELCKMANN: As I understood you earlier, you also said that the guards should be counted into that figure?

REINECKE: I had not finished my answer to that question. The guards in the concentration camps and the entire personnel in concentration camps were also counted in the Economic and Administrative Main Office Department "Dora" as concerns personnel and organization, and thus they were exclusively under the jurisdiction of Pohl as the Chief of the Economic and Administrative Main Office. I assume that the number of those guards is included in the figure of 24,091.

HERR PELCKMANN: Would you please look at the figure of 987 SS members attached to the Reich Commissioner for the Strengthening of German Folkdom, Volksdeutsche Mittelstelle. Merely as an example, were these 987 men the only employees of that department?

REINECKE: I know from my own experience as an SS judge that the department called "Reich Commissioner for the Strengthening of German Folkdom" had at its disposal thousands of people who, as I said yesterday, were civil servants and were in no way connected with the SS. That figure of 987 members of the SS can be explained just in the same way as all the other figures. They

became members of the SS for the same reason; that is to say, in order to be classified as indispensable they had to be sheltered in an armed unit performing military duties, to prevent them from being drafted. Those persons had no real connection with the SS organization in any case, and it was merely for the technical reasons which I have described that they were taken over by the SS.

HERR PELCKMANN: Well then, these statistics which are before us show approximately 800,000 members of the SS. Is it correct, Witness, that against that figure the statistics show that the concentration camp organization employed only about 25,000 members of the SS?

REINECKE: In June 1944, which is the date of this document, that is the correct proportion of men employed in concentration camps in comparison to the total strength of the SS, which is clearly evident from this document.

HERR PELCKMANN: May I now submit to Your Lordship the document which I unfortunately did not have at my disposal this morning.

[Turning to the witness.]

Witness, I will show it to you. Would you mind having a look at it. You know this document?

REINECKE: Yes, that document became known to me during the last 12 months.

HERR PELCKMANN: On Page 46 of that document there appears the testimony of a detainee who is referred to by the initials "E.H." The general impression is that the testimony was given before American interrogating authorities, and it reveals . . .

THE PRESIDENT: Is this document in evidence?

HERR PELCKMANN: Your Lordship, it is not in my document book. I am merely putting it to the witness, but as Your Lordship desired to see the book, I submitted it to the Tribunal.

THE PRESIDENT: Yes, but . . . Well, what is the book? I do not know what it is. What is it? Where does it come from?

HERR PELCKMANN: I beg to be permitted to ask the witness just one question with reference to this.

THE PRESIDENT: No, no, you may not do that until you have told me where the book comes from. Where does the book come from?

HERR PELCKMANN: It comes from the library here. I just got it from the library. It is an official publication . . .

THE PRESIDENT: I see.

HERR PELCKMANN: . . . by a Colonel Quinn. On Page 46 there is the testimony of this detainee, and the impression given is that

that testimony had been given before interrogating authorities of the American Army.

[Turning to the witness.]

Can you say anything with reference to that testimony, which describes atrocious conditions and crimes?

REINECKE: Yes, I can give you information on that subject. This testimony is...

THE PRESIDENT: But, Dr. Pelckmann, the document is not yet in evidence, unless you offer it. Now, if you offer it, it is different. But you are carefully trying to contradict it. What is the good of contradicting a document which is not in evidence? We have never seen it.

HERR PELCKMANN: If Your Lordship would hear the witness, then you would discover that I am not trying to contradict the document.

THE PRESIDENT: Do you want to offer the document in evidence then?

HERR PELCKMANN: First of all, I should like to put it to the witness and then if I get your permission I should very much like to offer it in evidence.

THE PRESIDENT: Well, then, you offer it in evidence and you are relying upon the document, are you? Are you relying upon it or are you not?

HERR PELCKMANN: As far as I can quote from Page 46, yes.

THE PRESIDENT: If you want to put it in for the purpose of relying on Page 46, you can do that.

HERR PELCKMANN: And the following pages, the entire testimony signed "E. H."

THE PRESIDENT: Go on.

HERR PELCKMANN: Witness, you understood my question?

REINECKE: Yes.

HERR PELCKMANN: Please will you answer it.

REINECKE: This testimony by "E. H." is the testimony of a female detainee, Eleanora Hodis from Auschwitz, and was made in the late autumn of 1944, under oath, before an SS judge. An investigating commission of the Main Office SS Courts had instituted proceedings against Grabner, Chief of the Police at Auschwitz, and various other participants, for the murder of detainees, and these people were indicted for murder in 2,000 cases.

As was always the case, considerable difficulties were met with in the attempt to clear up the facts. The female detainee, Eleanora

Hodis, declared herself willing to assist the investigating commission of the SS court by giving evidence, provided the judges would guarantee her life. That guarantee was given, and it was possible to get Hodis out of Auschwitz and transfer her to Munich. In Munich, at the date indicated, she gave her testimony, with those gruesome details which were to form the basis of proceedings to be instituted against Hoess and many other people. However, due to the collapse of Germany the proceedings could not be carried through.

HERR PELCKMANN: Is it correct, therefore, Witness, that the conditions which are described here existed in the Dachau Concentration Camp, as it would appear . . .

REINECKE: No.

HERR PELCKMANN: . . . by being included in this book, because after all, this book deals with the Concentration Camp Dachau?

REINECKE: No, that is not correct. The testimony given by the witness Hodis refers exclusively to the atrocious and gruesome conditions at Auschwitz, and has nothing whatever to do with Dachau Camp.

HERR PELCKMANN: Finally, Your Lordship, I merely beg to be allowed to refer to Document D-959 which has been submitted by the British Delegation. When discussing the question . . .

THE PRESIDENT: Give that document you just put in some number.

HERR PELCKMANN: The document "SS-Dachau". . .

THE PRESIDENT: You can give it a number afterward. Do not delay now.

HERR PELCKMANN: I will merely look up the number of documents I have submitted up to now and then I will give them numbers.

When the Prosecution defined their attitude regarding the admissibility of that document, they said that it was regretted that the document could be submitted only so very late. In other words, as we all know, it ought to have been submitted during the presentation of evidence. At this stage, with reference to the hundreds of statements regarding the activity of the Waffen-SS in Czechoslovakia, I cannot now define my attitude and I, too, regret that the document arrived so very late. However, as it has now been admitted and as the Tribunal is taking judicial notice of it, I think I ought to have the possibility, therefore, of referring to the details which are brought up in support of the case for the Prosecution—its value cannot be assessed otherwise—so as to have the opportunity to define my attitude. For that purpose I beg to be granted a respite.

THE PRESIDENT: Dr. Pelckmann, the Tribunal thinks that you must go on with your case and that you cannot be given further time. The Tribunal has said that they are bound to take judicial notice of the document under Article 21 and this witness has told us he had never heard of the incidents—two incidents I think—to which counsel drew his attention.

HERR PELCKMANN: I am afraid I did not understand the translation of the last part of what you said, Mr. President.

THE PRESIDENT: I said that you must go on with your case and that the Tribunal had admitted that document under Article 21, and that with reference to the two incidents to which counsel for the Prosecution referred, this witness has said that he has never heard of them.

HERR PELCKMANN: I have no further questions to this witness.

DR. GAWLIK: With reference to the Document D-960, submitted during cross-examination, I have a few questions to put to the witness.

THE PRESIDENT: Which document? Which document?

DR. GAWLIK: D-960, Exhibit Number GB-569.

[Turning to the witness.]

Witness, I shall once again have the document shown to you.

[The witness was handed the document.]

Was the SD responsible for dealing with this letter?

REINECKE: That question must be answered with "no." It becomes evident from its heading that the letter is addressed to the Security Police and SD at Strasbourg. The application of the term SD in this case is misleading; it was simply used by way of habit and had nothing to do with the organization of the SD. It results from the Chief of the Reich Security Main Office calling himself "Chief of Security Police and the SD."

DR. GAWLIK: I have no further questions.

THE TRIBUNAL (Mr. Biddle): Witness, I want to ask you a few questions about the investigation of the camps. You said your investigation began in 1943. What time in the year 1943 did your investigation begin of the concentration camps?

REINECKE: Your Lordship, that was during the second half of 1943, as far as I can recollect, either in June or July.

THE TRIBUNAL (Mr. Biddle): It lasted for a little under two years until the end of the war, I suppose.

REINECKE: Yes.

THE TRIBUNAL (Mr. Biddle): How many camps did you investigate?

REINECKE: It began in Buchenwald Camp, and thereafter investigating commissions were sent to every camp which had attracted suspicion.

THE TRIBUNAL (Mr. Biddle): Witness, listen very carefully and answer the questions. All I asked you was how many camps did you investigate?

REINECKE: In all, investigations were made in 7 to 10 camps, but I cannot give you the exact figure at the moment. It varied from time to time.

THE TRIBUNAL (Mr. Biddle): You mean 7 to 10 in all, altogether 7 to 10?

REINECKE: Yes, that is what I meant.

THE TRIBUNAL (Mr. Biddle): Did that include labor training camps also?

REINECKE: By the 7 to 10 camps I mean the "Stammlager" (parent camps), that is the concentration camps themselves, and from there the investigation spread from the parent camp where the commission was stationed to the labor camps.

THE TRIBUNAL (Mr. Biddle): And that included Auschwitz and Dachau?

REINECKE: In both these concentration camps there were investigation commissions.

THE TRIBUNAL (Mr. Biddle): And Treblinka?

REINECKE: Not in Treblinka, Your Lordship.

THE TRIBUNAL (Mr. Biddle): Did you investigate any camps outside of Germany?

REINECKE: Yes, for instance we had a commission in the Concentration Camp Hertogenbosch in Holland, and there proceedings were instituted against a camp commander, which ended in long terms of imprisonment.

THE TRIBUNAL (Mr. Biddle): How many investigators were you using at any one time?

REINECKE: The total of investigating officials may have varied from 30 to 50 people, the majority of whom were not taken from the legal authorities but were experts from the Reich Security Main Office and from the Criminal Police.

THE TRIBUNAL (Mr. Biddle): No, I do not want—now, how many cases did you recommend for court action?

REINECKE: Proceedings which ended with a sentence amounted to 200 up to the end of the war; that is to say, 200 sentences were passed which were actually carried out.

THE TRIBUNAL (Mr. Biddle): Again I did not ask you that, Witness; I said, how many cases did you recommend for action. You made recommendations, did you not?

REINECKE: Altogether 800 cases, 800 proceedings were instituted in the course of the investigations.

THE TRIBUNAL (Mr. Biddle): Where did you send your reports? Did you send them directly to the courts?

REINECKE: When the investigation was completed and when the case was ready for prosecution, the reports from the investigating commissions went, together with the judge's order to prosecute, to the court itself, which would then hold the actual trial and pronounce sentence.

THE TRIBUNAL (Mr. Biddle): And where did copies of the reports go? Did a copy go to the Minister of the Interior?

REINECKE: No, that I consider out of the question.

THE TRIBUNAL (Mr. Biddle): You mean the Minister of the Interior was not concerned with any of this?

REINECKE: We are here concerned with criminal proceedings against members of the SS which, therefore, came under the penal jurisdiction of the SS and, as far as that is concerned, the Ministry of the Interior was not involved.

THE TRIBUNAL (Mr. Biddle): You mean you were only investigating cases that involved the SS?

REINECKE: All cases were investigated which originated in the camps, and these cases referred to SS members and also to Police members, that is to say, members of the Security Police who were brought to trial before the courts.

THE TRIBUNAL (Mr. Biddle): Well now, you have not told us what conditions you found in the camps. You said they were very bad. What were they; what was going on in the camps?

REINECKE: We discovered through our investigations that in the camps there was to some extent a regular system of killing which was in use.

THE TRIBUNAL (Mr. Biddle): And as a result of discovering that there was a regular system of killing you thought there must be an order to that effect, although you never found it, is that right?

REINECKE: Yes, Your Lordship. The fact that an order from above was in existence became known to us at the end of 1944.

THE TRIBUNAL (Mr. Biddle): Now, why did you think that there was a regular system of killing? Was it because there were so many killings?

REINECKE: For the reason that there were so many cases, and also because a system of co-operation between the concentration camp commanders with the criminal detainees could be established.

THE TRIBUNAL (Mr. Biddle): That is right. And how many of those 7 to 10 camps, how many commandants, were involved in these killings?

REINECKE: In practice the situation was such that practically every commander was brought under investigation, and criminal proceedings were taken against five commanders in all.

THE TRIBUNAL (Mr. Biddle): Five, five out of how many?

REINECKE: Altogether there were 12 commanders of concentration camps, because there were 12 large concentration camps, the so-called "Stamm" (parent) concentration camps.

THE TRIBUNAL (Mr. Biddle): So out of 12 investigated you started proceedings against 5, is that right?

REINECKE: Yes, that is so.

THE TRIBUNAL (Mr. Biddle): Now, you said you thought that the killings must be on a large scale. Did you find any evidence of any of the gas chambers which added to your belief that it might be a large-scale operation? You found some evidence of gas chambers?

REINECKE: The first case in which a gas chamber appeared was the case of Auschwitz. That is the case, Your Lordship, that I have just mentioned here, with reference to the detainee Eleanora Hodis.

THE TRIBUNAL (Mr. Biddle): When was it that you got a report that a gas chamber was being used in Auschwitz? When?

REINECKE: That was at the end of October or the beginning of November 1944.

THE TRIBUNAL (Mr. Biddle): Did you get figures of the numbers of persons who had died in these 10 concentration camps? Did you find out how many persons had died in the different camps? Did you get statistics?

REINECKE: No, Your Lordship, about that we received no information. We had to collect and look for all the material ourselves, but we had no survey.

THE PRESIDENT: Can you remember the names of the five whom you prosecuted, the five commandants?

REINECKE: They were the Commander of Buchenwald, Koch; the Commander at Lublin, whose name I cannot remember at the moment; and the Commander of the Hertogenbosch Camp, whose name I just remember, a certain Grünwald.

Further investigations were carried out against the Commander of Oranienburg, Loritz, and also against Kaindel, the later commander. The proceedings against him were discontinued, however, because proof was furnished that at the time when Kaindel was camp commander, no killings had occurred.

THE PRESIDENT: Did you prosecute Hoess? H-o-e-s-s?

REINECKE: At the end of 1944 we started proceedings against Hoess, based on the testimony of the detainee in protective custody who has just been mentioned.

THE PRESIDENT: What crime did you charge Hoess with?

REINECKE: May I please make this matter clear. Proceedings against Hoess had not advanced sufficiently to serve an indictment against him. It was still in the process of preliminary investigation. Material had to be collected first.

THE PRESIDENT: Well, you must have arrived at some decision about Hoess, surely. You must have known what crimes you were investigating. What were the crimes you were investigating against Hoess?

REINECKE: In the case of Hoess the crime of murder of unknown persons and unknown numbers of persons detained in the Concentration Camp Auschwitz was investigated.

THE PRESIDENT: Did you say that you never heard of the facts which were stated in Document EC-168, the document in which Himmler said that the number of deaths in the concentration camps must be reduced?

REINECKE: I had never seen that document before. The first time that I saw it was when it was submitted by defendant's counsel here, but in the course of investigations, my judges had confirmed to me that instructions of that type were circulated in the camps and were actually observed.

THE PRESIDENT: The document, you remember, said that out of 136,000 persons in concentration camps, 70,000 had died.

REINECKE: I do not know at the moment which document you are referring to.

THE PRESIDENT: EC-168 is the document, and I wanted to know whether in the course of your investigations you found, you ascertained, those facts, namely, that 70,000 out of 136,000 had died?

REINECKE: No, such facts were not ascertained.

HERR PELCKMANN: I have no questions, Your Lordship, but I should like to be permitted to make a suggestion. This witness until the end of the war was only the deputy chief of the Main Office SS Courts. The chief was a certain Herr Breithaupt, who has since died. In the first place the heads of the commissions reported to this departmental chief, and the SS judges who carried out the investigations in the camps are still alive, and the answer to all these questions which Your Lordship and Mr. Biddle have put, can be given in detail by the witness Morgen.

If I may be permitted another suggestion...

THE PRESIDENT: But you have got some more witnesses to call, have you not? You have some more witnesses to call, have you not?

HERR PELCKMANN: During the entire Trial I have attempted to do without the witness Hinderfeld if possible. I have succeeded in putting the questions intended for witness Hinderfeld to the other witnesses I have called. If the Tribunal...

THE PRESIDENT: Well, Dr. Pelckmann. I do not understand what the object of this speech is. The witness has been examined, cross-examined, and re-examined, and examined by the Tribunal. Now he can retire and you can go on with your case.

HERR PELCKMANN: He can retire?

THE PRESIDENT: Yes, the witness can retire and the Tribunal will adjourn.

[A recess was taken.]

THE PRESIDENT: Dr. Pelckmann, I am told that I may have misunderstood what you were saying to me just before the Tribunal adjourned and that you were asking whether you might be allowed to call some other witness in place of one of the witnesses you had already applied for. Is that so?

HERR PELCKMANN: Yes.

THE PRESIDENT: Well, who is it you want to call?

HERR PELCKMANN: Since I know the wish of the Court to shorten the proceedings, I had endeavored to ask the other witnesses the questions which I had intended for the fifth witness. I believe I succeeded in this, but from the interest that the Tribunal took in the question of the investigation of concentration camps, I thought that it might be very expedient, and I must say that it would be in the interest of the Defense, if the judge, Dr. Morgen, mentioned by the witness Reinecke, might be examined briefly on these matters. I would be in a position to examine this witness

immediately, and would no longer require the witness Hinderfeld, who was to be examined.

THE PRESIDENT: You want to examine Dr. Morgen and to give up one of the other witnesses, is that right?

HERR PELCKMANN: Yes.

THE PRESIDENT: Yes. Very well, the Tribunal—he has been called before the Commission, I suppose, has he not?

HERR PELCKMANN: No, Your Lordship. There are affidavits from him. May I explain briefly why I could not examine him before the Commission? On 1 July the witness arrived here in Nuremberg after I had searched for him for a long time. Up to that time the witness was in Dachau without my being able to find out about it. On 1 July I was very busy with the last examinations before the Commission; for example, the witness Eberstein and the witness Reinecke I examined only on 5 and 6 July before the Commission, so that I could not prepare the testimony of this witness. As a result, I was able only after the end of the activity of the Commission to prepare affidavits with him. These are, I believe, Affidavits 65 and 67, but these affidavits do not show matters as clearly as if I were to examine him now, Your Lordship, and I respectfully submit that perhaps not I but the Tribunal might examine him if the rules allow this.

THE PRESIDENT: Who is the witness you are intending to dispense with?

HERR PELCKMANN: Hinderfeld.

THE PRESIDENT: Mr. Elwyn Jones, what view do the Prosecution take to this application?

MAJOR JONES: I suggest, My Lord, that it is—that it might be possible for a fuller affidavit to be taken by this witness and that might possibly meet the case. But in view of the fact that the Defense are abandoning one witness, I would not press that view, but I do respectfully suggest that, in view of the time that has been taken on this organization, that an affidavit might be appropriate, particularly as Dr. Pelckmann is dealing with matters—dealing with that part of the case in which the Tribunal is especially interested.

THE PRESIDENT: What do you say to that, Dr. Pelckmann? Could you not put the same questions to this witness, and could he not incorporate into his affidavit the point you want him to? He has already had three affidavits.

HERR PELCKMANN: Certainly, Your Lordship. I have in mind the following. The Prosecution called a witness, Sievers, in order further to support their position and I think that if I want to support the testimony of the witness Reinecke by calling another witness here that might be more or less on the same basis, and by the

testimony of a witness the matters of the concentration camps, the secret sphere of the concentration camp organization and the penetration of the legal authorities into it, might be cleared up more thoroughly for the Court than by an affidavit.

THE PRESIDENT: This witness of yours, is he here?

HERR PELCKMANN: He is in the witness building.

THE PRESIDENT: Were you proposing to call him next?

HERR PELCKMANN: I could do so. If the Prosecution wish to call their two witnesses first, I could interrupt, Your Lordship.

THE PRESIDENT: Dr. Pelckmann, have you any idea as to how long you will be with this witness if you do call him?

HERR PELCKMANN: Forty-five minutes to an hour.

THE PRESIDENT: Well, then, if you wish it, and you dispense with calling the witness Dr. Hindenberg, or whatever his name is, you may call Dr. Morgen.

HERR PELCKMANN: Thank you, Your Lordship. I call the witness Dr. Morgen.

MAJOR JONES: If Your Lordship pleases, the witness is, of course, in the prison at the moment, and it might therefore be convenient to call the witness for whom Dr. Pelckmann has asked for cross-examination, who is available immediately, and no doubt the Marshal can make the necessary arrangements for the other one.

THE PRESIDENT: Dr. Sievers, is it not?

MAJOR JONES: No, My Lord, there is a short one first, the witness Izrael Eizenberg, whose affidavit is Document Number D-939, GB-563.

THE PRESIDENT: Eisberg?

MAJOR JONES: Your Lordship, Eizenberg, it is.

THE PRESIDENT: Yes. Marshal, will you bring in Eizenberg and send for Morgen.

[The witness Eizenberg took the stand.]

THE PRESIDENT: Will you state your full name, please.

IZRAEL EIZENBERG (Witness): Izrael Eizenberg.

THE PRESIDENT: Will you repeat this oath after me:

I swear by God—the Almighty and Omniscient—that I will speak the pure truth—and will withhold and add nothing.

[The witness repeated the oath.]

THE PRESIDENT: You may sit down.

MAJOR JONES: Witness—I just want to put the statement to the witness, My Lord—Witness, are you Izrael Eizenberg, of 203, Reinsburgstrasse, Stuttgart?

EIZENBERG: Yes.

MAJOR JONES: Will you look at the affidavit D-939, Exhibit GB-563. Just look at it. Is that your statement?

EIZENBERG: Yes, I signed it.

MAJOR JONES: And is it true?

EIZENBERG: Yes, it is.

MAJOR JONES: Witness, I notice you have a scar on your face. Will you tell the Tribunal how it was caused?

EIZENBERG: Yes, I can tell the Tribunal. In October 1942—at the end of October 1942—I was shot at in Maidanek Camp together with many other Jews. The bullet hit my left cheek and I lay there from 9:30 in the evening until 4:30 in the morning. When people were removing the corpses, I was taken away with another man whose name was Stagel; we were the only survivors.

MAJOR JONES: And how many were killed on that occasion?

EIZENBERG: At 9:30 in the evening groups composed of about 1,000 or more people were conducted to a field. I was among them. Then they fired at us and I remained lying on the field until 4:30 in the morning.

MAJOR JONES: Now, just answer this last question, who were the killers?

EIZENBERG: They were SS men in SS uniforms.

MAJOR JONES: I have no further questions, My Lord.

HERR PELCKMANN: Witness, I know your affidavit. As far as I can see from it, you were in Lublin, at first in Lublin. Were there SS men there too, whom you got to know?

EIZENBERG: Yes, I knew many of them. I was working in the SS staff offices as an electrician and I was there very often in order to make electrical installations.

HERR PELCKMANN: In your affidavit you have given some names—Riedel, Mohrwinkel, and Schramm.

EIZENBERG: Yes, I knew them personally.

HERR PELCKMANN: They were on this staff?

EIZENBERG: Yes, they were on the staff, and its office was located at 21 Warsaw Street.

HERR PELCKMANN: Do you also know exactly the ranks which you mentioned in your affidavit as being held by these persons?

EIZENBERG: Yes, I know them.

HERR PELCKMANN: What, for example, was Riedel?

EIZENBERG: Riedel was an Unterscharführer.

HERR PELCKMANN: And Mohrwinkel?

EIZENBERG: At first he was a Rottenführer and then, as a result of this action, he was promoted to Untersturmführer.

HERR PELCKMANN: You just said that Riedel was an Unterscharführer. In your affidavit you said he was an Oberscharführer.

EIZENBERG: He had white braid on his shoulder-straps.

HERR PELCKMANN: Now, I show you a picture. Please tell me whether that is Riedel or Mohrwinkel, and what is the rank of this SS man.

EIZENBERG: This man is neither Mohrwinkel nor Riedel.

HERR PELCKMANN: And what is his rank?

EIZENBERG: It seems to me that he is a Rottenführer, because there is nothing on his shoulder-straps, and only a badge on his sleeve.

HERR PELCKMANN: Thank you. Now, I shall show you another picture. If I remember the other picture correctly, this would also have to be a Rottenführer?

EIZENBERG: I cannot tell with certainty, but the other one had on his shoulder-straps a white edge all round and here I see two white stripes on this photo.

HERR PELCKMANN: Thank you, Witness.

THE PRESIDENT: Is that all you wanted?

HERR PELCKMANN: I have no more questions, Your Lordship.

THE PRESIDENT: The witness can retire.

HERR PELCKMANN: For the information of the Tribunal, I should like to say that these photographs came from the book in Polish on the Warsaw atrocities submitted by the Prosecution yesterday, and the photographs do not show men of the Waffen-SS at all, but policemen. The witness did not notice that.

THE PRESIDENT: Well, the witness said he had never seen them before. The witness said he had never seen the man before. We do not need to argue about it. Now, who is your next witness?

HERR PELCKMANN: May I submit these pictures to the Tribunal or are they known? They are in the Polish book, in Polish, on Pages VIII, no, IX and XI. It is merely a question of uniform, Mr. President.

THE PRESIDENT: You can certainly put them in if you think it worth while; but now will you get on with your case. Is there another witness that you are going to call before Dr. Morgen?

HERR PELCKMANN: Yes; I believe the witness Sievers was called by the Prosecution, Your Lordship.

THE PRESIDENT: Well, is he here?

THE MARSHAL: Yes, Mr. President.

THE PRESIDENT: Well, call him then.

THE MARSHAL: Both witnesses are here now, Your Honor, both Sievers and Morgen.

THE PRESIDENT: We will go on with Sievers now.

MAJOR JONES: Perhaps, My Lord—you did indicate, My Lord, it might be more convenient for Dr. Pelckmann to finish with his witness before Dr. Sievers.

THE PRESIDENT: Very well, I do not mind. Call Dr. Morgen then.

[The witness Morgen took the stand.]

Will you state your full name, please?

GEORG KONRAD MORGEN (Witness): Georg Konrad Morgen.

THE PRESIDENT: Will you repeat this oath after me:

I swear by God—the Almighty and Omniscient—that I will speak the pure truth—and will withhold and add nothing.

[The witness repeated the oath.]

THE PRESIDENT: You may sit down.

HERR PELCKMANN: Witness, in view of the inportance of your testimony, I will first ask you in detail about your person. Were you an SS judge of the Reserve?

MORGEN: Yes.

HERR PELCKMANN: Please speak slowly and pause after each question.

What training did you have?

MORGEN: I studied law at the Universities of Frankfurt on the Main, Rome, Berlin; at the "Académie de Droit International" at The Hague and the "Institute for World Economy and Ocean Traffic" in Kiel. I passed the first examination and the State law examination. Before the war I was a judge at the Landgericht in Stettin.

HERR PELCKMANN: Were you a specialist in criminology and in criminal law?

MORGEN: No, I had specialized in international law, but later, during the war ,when I had to deal with criminal matters and penal law, I did special work in that field.

HERR PELCKMANN: How did you come to the SS?

MORGEN: I was drafted compulsorily into the General SS. In 1933, I belonged to the Reich Board for Youth Training, whose students' group was completely incorporated into the General SS. At the beginning of the war I was drafted into the Waffen-SS.

HERR PELCKMANN: What rank did you have there?

MORGEN: In the General SS I was Staffelanwärter and SS Rottenführer. In the Waffen-SS I was in the end Sturmbannführer of the Reserve.

HERR PELCKMANN: What example can you give that you did not believe you were joining a conspiracy when you entered the SS—very briefly, please.

MORGEN: In 1936 I published a book on *War Propaganda and the Prevention of War.* This book, at a time when war was threatening, showed ways and means to prevent war and to forestall the incitement to hostility between nations. The book was examined by the Party and published. Therefore, I could not suppose that the SS or the policy of the Reich Government was directed toward war.

HERR PELCKMANN: How did you come to make investigations in the concentration camps?

MORGEN: At the order of the Reichsführer SS, and due to my special abilities in criminology, I was detailed by the Main Office SS Courts to the Reich Criminal Police Department in Berlin, which was equivalent to a transfer. Shortly after I arrived there, I was given an assignment to investigate a case of corruption in Weimar. The accused was a member of the concentration camp of Weimar—Buchenwald. The investigations soon led to the person of the former Commander Koch and many of his subordinates, and beyond that they affected a number of other concentration camps. When these investigations became more extensive, I received full authority from the Reichsführer SS to engage generally in such investigations in concentration camps.

HERR PELCKMANN: Why was a special power of attorney from the Reichsführer necessary?

MORGEN: For the guards of the concentration camps, the SS and Police courts were competent; that is, in each case the local court in whose district the concentration camp was located. For that reason, because of the limited jurisdiction of its judge, the court was not able to act outside its own district. In these investigations and their extensive ramifications it was important to be able to work in various districts. Besides that, it was necessary to use specialists in criminal investigation, in other words, the Criminal Police. The Criminal Police however could not carry on any investigation directly with the troops, and only by combining juridical and Criminal Police activities was it possible to clear this up, and for this purpose I was given this special power of attorney by the Reichsführer.

HERR PELCKMANN: Now, how extensive did these investigations become? You can be brief because the witness Reinecke answered this point in part.

MORGEN: I investigated Weimar-Buchenwald, Lublin, Auschwitz, Sachsenhausen, Oranienburg, Hertogenbosch, Kraków, Plaszów, Warsaw, and the Concentration Camp Dachau. And others were investigated after my time.

HERR PELCKMANN: How many cases did you investigate? How many sentences were passed? How many death sentences?

MORGEN: I investigated about 800 cases, that is, about 800 documents, and one document would affect several cases. About 200 were tried during my activity. Five concentration camp commanders were arrested by me personally. Two were shot after being tried.

HERR PELCKMANN: You had them shot?

MORGEN: Yes. Apart from the commanders, there were numerous other death sentences against Führer and Unterführer.

HERR PELCKMANN: Did you have any opportunity of gaining personal insight into the conditions in concentration camps?

MORGEN: Yes, because I had authority to visit concentration camps. Only a very few persons had this permission. Before beginning an investigation, I examined the concentration camp in question in all its details very closely, inspecting especially those arrangements which seemed particularly important to me. I visited them repeatedly and without notice. I was working mostly in Buchenwald itself for 8 months and have lived there. I was in Dachau for one or two months.

HERR PELCKMANN: Since so many visitors to concentration camps say they were deceived, do you consider it possible that you, too, were a victim of such deceit?

MORGEN: I have just pointed out that I was not a mere visitor to a concentration camp but I had settled down there for a long residence, I might almost say I established myself there. It is almost impossible to be deceived for such a long time. In addition, the commissions from the Reich Criminal Police Department worked under my instructions, and I placed them directly in the concentration camps themselves. I do not mean to say that in spite of these very intensive efforts I was able to learn of all the crimes, but I believe that there was no deception in regard to what I did learn.

HERR PELCKMANN: Did you gain the impression, and at what time, that the concentration camps were places for the extermination of human beings?

MORGEN: I did not gain this impression. A concentration camp is not a place for the extermination of human beings. I must say that my first visit to a concentration camp—I mentioned the first one was Weimar-Buchenwald—was a great surprise to me. The

camp is situated on wooded heights, with a wonderful view. The installations were clean and freshly painted. There was much lawn and flowers. The prisoners were healthy, normally fed, sun-tanned, working . . .

PRESIDENT: When are you speaking of? When are you speaking of?

MORGEN: I am speaking of the beginning of my investigations in July 1943.

HERR PELCKMANN: What crimes did you discover?

MORGEN: Pardon me, I had not—may I continue?

HERR PELCKMANN: Please, be more brief.

MORGEN: The installations of the camp were in good order, especially the hospital. The camp authorities, under the Commander Diester, aimed at providing the prisoners with an existence worthy of human beings. They had regular mail service. They had a large camp library, even books in foreign languages. They had variety shows, motion pictures, sporting contests and even had a brothel. Nearly all the other concentration camps were similar to Buchenwald.

PRESIDENT: What was it they even had?

MORGEN: A brothel.

HERR PELCKMANN: What crimes did you learn about?

MORGEN: As I said before, the investigations were based on a suspicion of corrupt practices. In time however, I was obliged to come to the conclusion that besides those crimes, killings had also occurred.

HERR PELCKMANN: How did you reach the suspicion that killings had occurred?

MORGEN: I learned that the starting point for the corruption was the assignment of Jews to the camps after the action of 1938. I made it a point to learn all the possible facts about this action, and in doing so I found that the majority of the prisoners who were suspected of knowing something about these cases of corruption, had died. This peculiar frequency of killings was noticeable; it struck me because other prisoners who were not in any key positions remained in Buchenwald for years in the best of health, and were still there, so that it was rather remarkable that it was just certain prisoners who might have been possible witnesses who had died. I thereupon examined the files concerning these deceased prisoners. The files themselves offered no clues to suspect illegal killings. The dates of the deaths were years apart and in each case different causes of death were given. But it struck me that the majority of these deceased prisoners had been put into the camp

hospital or in arrest shortly before their death. This aroused my suspicion for the first time that in these two places murders of prisoners might possibly have occurred. Thereupon I appointed a special official, whose sole task was to investigate the suspicious circumstances, and follow up the rumors which were circulating about the detention quarters, the so-called "Bunker," regarding this killing of prisoners. This very zealous and able detective had to report again and again that he had not found the faintest clue for my suspicions. After two weeks of completely unsuccessful activity, the detective refused further services and asked me ironically whether I myself believed that such rumors of illegal killing of prisoners could be true. Much later, and only by chance did I hit upon the first clue; it struck me that the names of certain prisoners were listed at the same time in the rolls of the camp prison as well as in those of the hospital. In the prison rolls, for example, it said, "Date of release 9 May, 12 o'clock." In the hospital register, "Patient died 9 May, 9:15 a.m." I said to myself, this prisoner cannot be in the camp prison and at the same time a patient in the hospital. False entries must have been made here. I therefore concentrated my efforts on this and I succeeded in getting behind this system, for it was a system, under Commander Koch.

The prisoners were taken to a secret place and were killed there, mostly in a cell of the camp prison, and sick reports and death certificates were prepared for the files. They were made out so cleverly that any unprejudiced reader of the documents would get the impression that the prisoner concerned had actually been treated and had died of the serious illness which was indicated.

HERR PELCKMANN: Then what did you do after learning of these facts?

MORGEN: I found out that the medical officer at Buchenwald, SS Hauptsturmführer Dr. Hoven, was principally responsible and I had him arrested. I informed my investigating commission in the concentration camps, with which we had to deal, of these cunning forgeries and directed their particular attention to investigating systematically whether in other concentration camps such murders had also taken place. We satisfied ourselves at the time of the investigation—and I am speaking of the second half of 1943—that in the Concentration Camps Buchenwald, Sachsenhausen, and Dachau to the best of our knowledge no such killings occurred. In the other concentration camps, however, such cases were found. The persons believed to be guilty were accused, arrested, and charged.

HERR PELCKMANN: Why was this not done earlier?

MORGEN: I have already said that these deceptive measures were so cunningly contrived that it was not possible to discover them earlier. Above all, there was no possibility of clearing up the

matter, and then those things were always done without witnesses. These cases should at all events have been investigated by the SS courts and they were investigated, for every unnatural death of a prisoner had to be reported by teletype to the central offices. Besides that, the specially sworn-in court officer who was in the camp had to go immediately to the place of the occurrences to question the witnesses; sketches and photographs had to be made of the scene and it was a regulation that an autopsy had to take place in every such case of unnatural death. These reports of unnatural deaths, or of deaths suspected of being unnatural, were sent regularly to the SS and Police court; but as I have already said, these reports were so cunningly contrived and the files were in such good order, that even an expert could not have suspected an illegal killing. Of course, proceedings against members of the concentration camp personnel were frequently instituted, some followed by sentences, even death sentences. But these criminal acts seemed to be within range of the usual army rate of 0.5 percent to 3 percent.

If nothing at all had been reported to the SS courts from the concentration camps, or if numerous reports had been made, then it would of course have seemed suspicious. But it was a normal average and nobody could suspect that the concentration camps were a hotbed of such dangerous crimes. It was only through my investigation, which as I said was caused by accident, that we received our first insight into the true state of affairs.

HERR PELCKMANN: How did you come onto the track of mass killings? You have just spoken of individual killings.

MORGEN: I found traces of mass destructions also by chance. At the end of 1943, I discovered two trails at the same time, one leading to Lublin and the other to Auschwitz.

HERR PELCKMANN: Please describe the Lublin trail first.

MORGEN: One day I received a report from the commander of the Security Police in Lublin. He reported that in a Jewish labor camp in his district a Jewish wedding had taken place. There had been 1,100 invited guests at this wedding . . .

HERR PELCKMANN: Go on witness, a little faster.

MORGEN: As I said before, 1,100 guests participated in this Jewish wedding. What followed was described as quite extraordinary owing to the gluttonous consumption of food and alcoholic drinks. Among these Jews were members of the camp guard, that is to say some SS men, who joined in this revelry. This report only came into my hands in a roundabout way, some months later, due to the fact that the Commander of the Security Police suspected that the circumstances indicated that some criminal acts had occurred. This was my impression as well, and I thought that this

report would give me a clue to another big case of criminal corruption. With this in mind, I went to Lublin and called at the Security Police there, but all they would tell me was that the events happened at a camp of the Deutsche Ausrüstungswerke. But nothing was known there. I was told it might possibly be a rather odd and shrouded (this was the actual term used) camp in the vicinity of Lublin. I found out the camp and the commander, who was Kriminalkommissar Wirth.

I asked Wirth whether this report was true or what it meant. To my great astonishment, Wirth admitted it. I asked him why he permitted members of his command to do such things and Wirth then revealed to me that on the Führer's orden he had to carry out the destruction of Jews.

HERR PELCKMANN: Please go on, Witness, to describe your investigations.

MORGEN: I asked Wirth what this had to do with the Jewish wedding. Then, Wirth described the method by which he carried out the extermination of Jews, and he said something like this: "One has to fight the Jews with their own weapons, that is to say"—pardon me for using this expression—"one has to cheat them."

Wirth staged an enormous deceptive maneuver. He first selected Jews who would, he thought, serve as column leaders, then these Jews brought along other Jews, who worked under them. With that smaller or medium-sized detachment of Jews, he began to build up the extermination camps. He extended this staff of Jews, and with these Jews Wirth himself carried out the extermination of the Jews.

Wirth said that he had four extermination camps and that about 5,000 Jews were working at the extermination of Jews and the seizure of Jewish property. In order to win Jews for this business of extermination and plundering of their brethren of race and creed, Wirth gave them every freedom and, so to speak, gave them a financial interest in the spoliation of the dead victims. As a result of this attitude, this sumptuous Jewish wedding had come about.

Then I asked Wirth how he killed Jews with these Jewish agents of his. Wirth described the whole procedure that went off like a film every time. The extermination camps were in the east of the Government General, in big forests or uninhabited wastelands. They were built up like a Potemkin village. The people arriving there had the impression of entering a city or a township. The train drove into a dummy railroad station. After the escorts and the train personnel had left the area, the cars were opened and the Jews got out. They were surrounded by these Jewish labor detachments, and Kriminalkommissar Wirth or one of his representatives made a speech. He said, "Jews, you were brought here to be resettled, but

before we organize this future Jewish State, you must of course learn how to work. You must learn a new trade. You will be taught that here. Our routine here is, first, every one must take off his clothes so that your clothing can be disinfected, and you can have a bath so that no epidemics will be brought into the camp."

After he had found such calming words for his victims, they started on the road to death. Men and women were separated. At the first place, one had to deliver the hat; at the next one, the coat, collar, shirt, down to the shoes and socks. These places were faked cloakrooms, and the person was given a check at each one so that the people believed that they would get their things back. The other Jews had to receive the things and hurry up the new arrivals so that they should not have time to think. The whole thing was like an assembly line. After the last stop they reached a big room, and were told that this was the bath. When the last one was in, the doors were shut and the gas was let into the room.

As soon as death had set in, the ventilators were started. When the air could be breathed again, the doors were opened, and the Jewish workers removed the bodies. By means of a special procedure which Wirth had invented, they were burned in the open air without the use of fuel.

HERR PELCKMANN: Was Wirth a member of the SS?

MORGEN: No, he was a Kriminalkommissar in Stuttgart.

HERR PELCKMANN: Did you ask Wirth how he arrived at this devilish system?

MORGEN: When Wirth took over the extermination of the Jews, he was already a specialist in mass-destruction of human beings. He had previously carried out the task of getting rid of the incurably insane. By order of the Führer himself, whose order was transmitted through the Chancellery of the Führer, he had, at the beginning of the war, set up a detachment for this purpose, probably composed of a few officials of his, as I believe, the remainder being agents and spies of the Criminal Police.

Wirth very vividly described how he went about carrying out this assignment. He received no aid, no instructions, but had to do it all by himself. He was only given an old empty building in Brandenburg. There he made his first experiments. After much consideration and many individual experiments, he evolved his later system, and then this system was used on a large scale to exterminate the insane.

A commission of doctors previously investigated the files, and those insane who were listed by the asylums as incurable were put on a separate list. Then the asylum concerned was told one day to send these patients to another institution. From this asylum

the patient was transferred again, often more than once. Finally he came to Wirth's institution, where he was killed by gas and cremated.

This system, which deceived the asylums and made them unknowing accomplices, enabled him with very few assistants to exterminate large numbers of people, and this system Wirth now employed with a few alterations and improvements for the extermination of Jews. He was also given the assignment by the Führer's Chancellery to exterminate the Jews.

HERR PELCKMANN: The statements which Wirth made to you must have surpassed human imagination. Did you immediately believe Wirth?

MORGEN: At first Wirth's description seemed completely fantastic to me, but in Lublin I saw one of his camps. It was a camp which collected the property or part of the property of his victims. From the piles of things—there were an enormous number of watches piled up—I had to realize that something frightful was going on here. I was shown the valuables. I can say that I never saw so much money at one time, especially foreign money—all kinds of coins, from all over the world. In addition, there was a gold-smelting furnace and really prodigious bars of gold.

I also saw that the headquarters from which Wirth directed his operations was very small and inconspicuous. He had only three or four people working there for him. I spoke to them too.

I saw and watched his couriers arrive. They actually came from Berlin, Tiergartenstrasse, the Führer's Chancellery, and went back there. I investigated Wirth's mail and I found in it confirmation of all this.

Of course, I could not do or see all this on this first visit. I was there frequently. I pursued Wirth up to his death.

HERR PELCKMANN: Did Wirth give you names of people who were connected with this operation?

MORGEN: Not many names were mentioned, for the simple reason that the number of those who participated could be counted, so to speak, on one's fingers. I remember one name: I think the name was Blankenburg, in Berlin.

HERR PELCKMANN: Blankenburg?

MORGEN: Blankenburg, of the Führer's Chancellery.

THE PRESIDENT: Well, we had better adjourn now. We have already been 50 minutes.

[The Tribunal adjourned until 8 August 1946 at 1000 hours.]

ONE HUNDRED AND NINETY-EIGHTH DAY

Thursday, 8 August 1946

Morning Session

[The witness Morgen resumed the stand.]

HERR PELCKMANN: Witness, I have two pictures to show to you. This has nothing to do with your examination concerning the concentration camps.

[Turning to the President.] They are the same pictures, Your Lordship, which I showed to the witness Eizenberg yesterday. They have now received an exhibit number from me, Exhibit Number SS-2 and Exhibit Number SS-3. As I said yesterday, they are taken from the book, written in Polish, which the Prosecution submitted a few days ago, on Pages IX and XI.

[Turning to the witness]: What is the rank of this SS man, Witness?

MORGEN: That cannot be an SS man. He is not wearing an SS uniform. I never saw such a uniform. On the left arm, the man wears the insignia of the Police and the Police shoulder patch.

HERR PELCKMANN: That is enough, Witness. I shall show you the second photograph. Please answer the question just as briefly.

MORGEN: That is not an SS uniform either, but a fancy uniform.

HERR PELCKMANN: Thank you, Witness. Yesterday you had already begun the description of the so-called extermination camps and the system of the extermination camps, but I should like to go back to conditions in the concentration camps which are to be distinguished from the so-called extermination camps.

You had given a description of the outward impression given by these camps which was extraordinarily pleasing. In order not to give any false impression, will you please describe in general the negative observations which you made.

MORGEN: I was asked whether from my impressions of the concentration camps I gained the idea that they were extermination

camps. I had to say that I could not get this impression. I did not mean to say that the concentration camps were sanatoria, or a paradise for the prisoners. If they had been that, my investigations would have been senseless.

Through these investigations I gained insight into the extremely dark and dismal side of the concentration camps. The concentration camps were establishments which, to put it mildly, were bound to give rise to crimes as a result of the application of a false principle. When I say the principle was at fault, I mean the following: The prisoner was sent to the concentration camp through the Reich Security Main Office. A political agency decided about his freedom, and its decision was final. Thereby the prisoner was deprived of all legal rights. Once in the concentration camp, it was almost impossible to regain freedom, although at regular intervals the cases were reviewed. The procedure was so complicated that, aside from exceptional instances, the great majority could have no hope. The camp, the Reich Security Main Office, and the agency which had assigned the individual to the camp, had to agree to his release. Only if these three agencies reached an agreement could a release be effected. Thereby, not only the reason for the arrest was taken into consideration, but through a monstrous order of SS Obergruppenführer Pohl the production side was also important. If a prisoner was needed in the camp because he was a good man, even though all conditions for release existed, he could not be released.

The concentration camps were surrounded by a sphere of secrecy. The prisoner was not allowed any free contact with the public.

MR. DODD: Mr. President, we do not have the first responsibility, of course, for this defense. But I have discussed with Mr. Elwyn Jones my objection, he has it in here, and he finds no fault with it. It seems to me that what we are hearing here is a lecture on the Prosecution's case, and I do not see how it in any sense can be said to be a defense of the SS.

THE PRESIDENT: Dr. Pelckmann, the Tribunal thinks that the latter part of the evidence does not have much bearing on the case of the SS. They think it would be better that you should get on with the case for the SS.

HERR PELCKMANN: The charge against the SS is essentially based on the assertion that the SS as a whole is responsible for the concentration camps.

I am endeavoring to explain to the Tribunal the concentration camp organization from the very beginning, including all those questions which have not yet been explained either by the Prosecution or the witnesses, in order to find out the absolute truth. And I believe that it is necessary for the Tribunal to know this truth in

order to be able to judge whether the charge of the Prosecution that the SS as a whole is responsible for the atrocities and the mass exterminations in the concentration camps or in the extermination camps is justified. I assert . . .

THE PRESIDENT: Kindly go on with your case, Dr. Pelckmann. Will you kindly go on and make it as short as you can upon these matters which seem to be rather remote.

HERR PELCKMANN: From all the testimony of witnesses which I submit here on this point, it will be shown that the concentration camp organization was an entity.

THE PRESIDENT: Go on with your case. You are to go on with your case, and not argue with me.

HERR PELCKMANN: Witness, what were the further negative observations which you made? Please be brief on this point as the Court wishes.

MORGEN: The prisoner could not contact the public freely, and so his observations were not made known to the public. By this isolation in the concentration camp he was practically under the sway of the camp. This meant that he had to fear that at any time crimes could be committed against him. I did not have the impression from these facts that their purpose was to produce a system of crimes; but, of necessity, individual crimes were bound to result from these conditions.

HERR PELCKMANN: Witness, the events and the atrocities and the mass exterminations in the concentration camps are precisely what was charged against the SS. Please describe how these crimes are to be classified in three categories, and what these crimes have to do with the total planning of the SS. According to your information, I distinguish between atrocities caused by conditions beyond control, atrocities caused by supreme orders, and atrocities caused by individual criminal acts.

MORGEN: To a great extent the horrible conditions at times prevailing in some concentration camps did not arise from deliberate planning, but developed from circumstances which in my opinion must be called *force majeure,* that is to say, evils for which the local camp leaders were not responsible. I am thinking of the outbreak of epidemics. At irregular intervals many concentration camps were visited by typhoid fever, typhus, and other sicknesses caused especially by the arrival of prisoners from the Eastern areas in the concentration camps. Although everything humanly possible was done to prevent these epidemics and to combat them, the death rate which resulted was extremely high. Another evil which may be considered as *force majeure* was the fluctuating numbers of new

arrivals and the insufficient billets. Many camps were overcrowded. The prisoners arrived in a weakened condition because, due to air raids, the transports were under way longer than expected. Towards the end of the war, there was a general collapse of the transportation system. Supplies could not be carried out to the necessary extent; chemical and pharmaceutical factories had been systematically bombed, and all the necessary medicines were lacking. To top all, the evacuations from the East further burdened the camps and crowded them in an unbearable manner.

HERR PELCKMANN: That is enough on this point. Will you go on to the second point, the supreme orders?

MORGEN: As supreme orders I consider the mass extermination of human beings which has already been described, not in the concentration camps but in separate extermination places. There were also execution orders of the Reich Security Main Office against individuals and groups of persons.

The third point deals with the majority of individual crimes of which I said . . .

THE PRESIDENT: Which is the witness talking about when he talks about extermination camps? Which are you talking about? Which do you call extermination camps?

HERR PELCKMANN: Please answer the question, Witness.

MORGEN: By extermination camps I mean those which were established exclusively for the extermination of human beings with the use of technical means, such as gas.

THE PRESIDENT: Which were they?

MORGEN: Yesterday I described the four camps of the Kriminalkommissar Wirth and referred to the Camp Auschwitz. By "Extermination Camp Auschwitz" I did not mean the concentration camp. It did not exist there. I meant a separate extermination camp near Auschwitz, called "Monowitz."

THE PRESIDENT: What were the other ones?

MORGEN: I do not know of any other extermination camps.

HERR PELCKMANN: You were speaking of atrocities on the basis of individual acts of a criminal nature. Please continue.

MORGEN: One must distinguish between the types of perpetrators. There were even killings of one prisoner by another, for example, because of revenge. If a prisoner had escaped, then during the search, because one did not know where the prisoner was hiding—perhaps in the camp itself—the whole camp had to line up on the parade grounds. That often lasted for hours and sometimes a whole day. The prisoners were tired and hungry, and the long wait, standing sometimes in the cold or rain, excited them

very much, so that when the prisoner was recaptured, the other prisoners, out of revenge for his having brought this upon them, beat him to death when the opportunity presented itself.

There were many cases in which prisoners who had the impression that one among them was a spy, attempted to kill this prisoner in self-defense. There were cases where individual prisoners, due to physical weakness, could not keep pace with the others as regards work and who, on top of it, aroused the disgust of the other prisoners by bad behavior, for instance, by stealing bread or similar acts. If one considers that a large part of the prisoners were professional criminals who had already been sentenced before, it seems plausible that these people killed such fellow prisoners. This was done in many ways.

HERR PELCKMANN: You need not explain that at the moment, we will come back to it later. But will you describe another type of perpetrator?

MORGEN: Now I come to killings committed by members of the camp against prisoners and by prisoners against fellow prisoners. To give a specific example I should like to describe the case of the commander of the Concentration Camp Buchenwald, Koch, who was legally tried and executed. The following individual case happened. A prisoner who was an old Party member was sent to the Concentration Camp Buchenwald. As one of the old guard he had obtained a job as Kurdirektor. He misused this position to force Polish household employees under threat of dismissal to commit perverted actions with him, although he himself was very syphilitic. This man was sentenced to a long term of penal servitude by a regular court and after that sent to the concentration camp. Koch found his files, considered the sentence an error, and thinking himself authorized to correct this error of justice, had the prisoner put to death.

Another case of an entirely different sort is the following: Koch believed that a certain little Jewish prisoner, who had marked physical peculiarities, was following him to his various offices in the various camps. In superstitious fear of bad luck, he one day gave instructions to have this prisoner killed.

Another case: Koch believed that his criminal activity, or certain personal relationships, were known to some prisoners. In order to protect himself, he had them killed.

HERR PELCKMANN: How were these killings made possible, and how could the other inmates of the camp know about them?

MORGEN: The procedure was very simple. The prisoners in question were called, without being given reasons, and had to report at the gate of the camp. That was nothing striking, because almost every hour prisoners were picked up there for questioning,

for removal to other camps, and so forth. These prisoners, without the other prisoners becoming aware of it, came to the so-called Kommandantur prison, which was outside the camp. There they were held for a few days, often one or two weeks, and then the jailer had them killed, mostly in the form of a sham inoculation; actually, they were given an injection of phenol into the arteries.

Another possibility of secret killing was the occasional transfer to the hospital. The doctor simply stated that a man needed treatment. He brings him in and after some time he puts him into a single room and kills him there. In all these cases the record showed that the prisoner in question had died of such and such a normal illness.

Another case: The prisoner was assigned to a detail of hard work, generally the so-called "quarry detail." The Kapo of this detail is given a hint and makes the life of the prisoner more and more unbearable by making him work incessantly and vexing him in every respect. Then the day arrives when the prisoner loses patience and in order to escape this torture, breaks through the cordon of sentries, whereupon the guard, whether he wants to or not, has to shoot him.

These different forms of killing varied from case to case. By that very fact they were outwardly unrecognizable, because they took place in secret places by various methods at various times. This presupposed that the commander who did this, like Koch here, relied on certain men who were absolutely devoted to him and who had key positions, such as the doctor here, who was arrested, the overseer, who was also arrested—and who committed suicide right after—and upon the aid of Kapos who were devoted to him and who co-operated with him. Where this co-operation was not possible, such excesses and crimes could not occur.

HERR PELCKMANN: Did you find such cases and such camps?

MORGEN: Yes. I have already mentioned the result of our investigations. Since the majority of the camps was set up during the war with new personnel and in the old camps the personnel in key positions was replaced by new people, this co-operation could no longer take place.

HERR PELCKMANN: Would it be wrong to assume that all camps and all camp commanders and all camp doctors acted in the way you have just described?

MORGEN: According to my exhaustive investigations, I can only say that this assumption would be completely wrong. I really met commanders who did everything humanly possible for their prisoners. I met doctors whose every effort was to help sick prisoners and to prevent further sickness.

HERR PELCKMANN: We will go back to the mass exterminations, one case of which you described. You spoke of Kriminalkommissar Wirth, who was not a member of the SS and whose staff did not consist of SS men. Why was Wirth given the assignment?

MORGEN: I have already mentioned that Wirth was Kriminalkommissar with the Criminal Police in Stuttgart. He was Kommissar for the investigation of capital crimes, particularly murder. He had quite a reputation in discovering clues, and before the seizure of power he became known to the general public for unscrupulous methods of investigation which even led to a discussion in the Württemberg Landtag (Diet). This man was now used in order to cover up the traces of these mass killings. It was thought that on the basis of his previous professional experience this man was unscrupulous enough to do this job, and that was true.

HERR PELCKMANN: You mentioned the Jewish prisoners who aided in the killings. What became of these people?

MORGEN: Wirth told me that at the end of the actions he would have these prisoners shot and in doing so, would despoil them of the profits which he had allowed them to make. He did not do this all at once, but by means of the deceptive methods already described he lured and segregated the prisoners and then killed them individually.

HERR PELCKMANN: Did you hear from Wirth the name Hoess?

MORGEN: Yes. Wirth called him his untalented disciple.

HERR PELCKMANN: Why?

MORGEN: In contrast to Wirth, Hoess used in principle entirely different methods. I would best describe them when we come to the subject of Auschwitz.

HERR PELCKMANN: Was the name Eichmann mentioned at that time?

MORGEN: I cannot remember that the name Eichmann was mentioned at that time, but later I heard of it, too.

HERR PELCKMANN: How did you come on the trail which led to Auschwitz?

MORGEN: I got a clue by a remark of Wirth himself. Now I had only to find a reason to institute investigations in Auschwitz itself. I beg to bear in mind that my assignment was limited; I had to investigate crimes of corruption and crimes committed in connection with them.

THE PRESIDENT: Dr. Pelckmann, didn't he explain how he came to investigate Auschwitz yesterday?

HERR PELCKMANN: No, it was something entirely different, Your Lordship.

MORGEN: Yesterday I spoke only of Lublin and Wirth. I said I received information about Hoess and wanted to try to get into the camp and needed a reason. I found this reason very soon.

The Protectorate Police had heard about the smuggling of gold in the Protectorate. The traces led to Berlin. The customs officials for Berlin-Brandenburg had found out persons who were on the staff of the Concentration Camp Auschwitz, and had turned over the proceedings to the SS and Police Court in Berlin. I learned of it there and I took charge of these proceedings—they dealt with enormous gold smuggling—and shortly thereafter went to Auschwitz.

HERR PELCKMANN: Then you were in Auschwitz proper?

MORGEN: Yes, I went to Auschwitz, and before I started with the investigation itself . . .

THE PRESIDENT: When did you go there?

MORGEN: I cannot give the date exactly, but it must have been the end of 1943 or the beginning of 1944.

HERR PELCKMANN: The method of extermination there was probably similar to the one you described yesterday?

MORGEN: I thoroughly investigated the entire stretch of territory and studied the layout and installations. The prisoners arrived on a side track in closed transport cars and were unloaded there by Jewish prisoners. Then they were segregated into able-bodied and disabled, and here already the methods of Hoess and Wirth differ. The separation of the disabled was done in a fairly simple way. Next to the place of the unloading there were several trucks and the doctor gave the arrivals the choice to use these trucks. He said that only sick, old persons and women with children, were allowed to use them. Thereupon these persons swarmed toward the transportation prepared for their use, and then he needed only to hold back the prisoners that he did not want to send to destruction. These trucks drove off, but they did not drive to the Concentration Camp Auschwitz, but in another direction to the Extermination Camp Monowitz, which was a few kilometers away. This extermination camp consisted of a number of crematories which were not recognizable as such from the outside. They could have been taken for large bathing establishments, and that is what they told the prisoners. These crematories were surrounded by a barbed wire fence and were guarded from the inside by the Jewish labor details which I have already mentioned. The new arrivals were led into a large dressing room and told to take their clothing off. When this was done . . .

HERR PELCKMANN: Is that not what you described yesterday?

MORGEN: Of course.

HERR PELCKMANN: What precautions were taken to keep these things absolutely secret?

MORGEN: The prisoners who marched off to the concentration camp had no inkling of where the other prisoners were taken. The Extermination Camp Monowitz lay far away from the concentration camp. It was situated on an extensive industrial site and was not recognizable as such and everywhere on the horizon there were smoking chimneys. The camp itself was guarded on the outside by special troops of men from the Baltic, Estonians, Lithuanians, Latvians, and also Ukrainians. The entire technical arrangement was almost exclusively in the hands of the prisoners who were assigned for this job and they were only supervised each time by an Unterführer. The actual killing was done by another Unterführer who let the gas into this room. Thus the number of those who knew about these things was extremely limited. This circle had to take a special oath . . .

THE PRESIDENT: Were these Unterführer in the SS?

MORGEN: They wore SS uniforms.

THE PRESIDENT: Didn't you take the trouble to ascertain whether they were proper members of the SS?

MORGEN: I said that they were people from the Eastern territories.

THE PRESIDENT: I do not care what you have already said. What I asked you was, didn't you take the trouble to ascertain whether they were members of the SS?

MORGEN: I beg your pardon, Your Lordship. I do not understand your question. They could not be members of the General SS. As far as I could learn, they were volunteers and draftees who had been recruited in the Baltic countries where they had carried out security tasks, and who were then somehow especially selected and sent to Auschwitz and Monowitz. These were special troops, who had only this particular task and no other. They were completely outside of the Waffen-SS . . .

THE PRESIDENT: I didn't ask you if they were in the Waffen-SS. Did you ask questions as to why they were put into SS uniforms?

MORGEN: No, I did not ask that question. It seemed incomprehensible to me. It is probably due to the fact that the commander of the Concentration Camp Auschwitz . . .

THE PRESIDENT: Wait a minute. You said, as I understand it, that you considered it incomprehensible why they wore the SS uniforms. Didn't you say that?

MORGEN: Yes.

THE PRESIDENT: Were there no officers of the SS there at all?

MORGEN: One officer, the commander of this company, I believe a Hauptsturmführer Hartenstein, or something like that.

THE PRESIDENT: Why didn't you ask him why these men were put into SS uniforms?

MORGEN: The extermination camp was under the direction of SS Standartenführer Hoess. Hoess was commander of the Concentration Camp Auschwitz, and also of the extermination camp, Monowitz. Around Auschwitz were a number of labor camps and I have already said . . .

THE PRESIDENT: I didn't ask you where. What I am asking you is why you didn't ask these two SS men why they put these men into SS uniforms?

MORGEN: I assumed that this was done for camouflage reasons so that this extermination camp would not be distinguished outwardly from the other labor camps and the concentration camp itself. As a soldier it was incomprehensible to me that this damage to the reputation of the SS was tolerated as it had nothing to do with this extermination.

THE PRESIDENT: You yourself were a high SS officer, were you not?

MORGEN: I was Sturmbannführer of the Waffen-SS.

THE PRESIDENT: Well, what I am asking you is this: why, in those circumstances, you made no inquiry about it, and why you didn't ask these high SS officers there, "What is the meaning of these men being put into SS uniforms?"

MORGEN: I did not understand the question.

THE PRESIDENT: Go on.

HERR PELCKMANN: Witness, I should like to ask you the question myself. Why did you not ask the higher SS leaders whom you met there why these people were working in SS uniforms?

MORGEN: I said that I had the impression that this was done for reasons of camouflage so that the camp would not be distinguished from the other camps through the use of different uniforms.

HERR PELCKMANN: This explanation which you gave yourself is the reason why you did not question the officers, is that true?

MORGEN: At any rate I cannot remember having asked the officers about it. I did not speak to any officers except to the commander, Hoess, and the commander of the guards of the extermination camp.

HERR PELCKMANN: Have you described everything which . . .

THE PRESIDENT: Go on.

HERR PELCKMANN: Have you said everything in answer to the question as to how secrecy was secured?

MORGEN: Another important point may perhaps be mentioned. Certain Jewish prisoners with connections abroad were selected and were made to write letters abroad telling how well-off they were in Auschwitz, so that the public got the impression that these well-known people were alive and could write that they were doing well.

HERR PELCKMANN: Thank you. Now, Witness, under normal circumstances what would you have had to do after you had learned of all these terrible things?

MORGEN: Under normal circumstances I would have had to have Kriminalkommissar Wirth and Commander Hoess arrested and charged with murder.

HERR PELCKMANN: Did you do that?

MORGEN: No.

HERR PELCKMANN: Why not?

MORGEN: The answer is already entailed in the question. The circumstances prevailing in Germany during the war were no longer normal in the sense of State legal guarantees. Besides, the following must be considered: I was not simply a judge, but I was a judge of military penal justice. No court-martial in the world could bring the Supreme Commander, let alone the head of the State, to court.

HERR PELCKMANN: Please do not discuss problems of law, but tell us why you did not do what you realized you should have done?

MORGEN: I beg your pardon; I was saying that it was not possible for me as Obersturmbannführer to arrest Hitler, who, as I saw it, was the instigator of these orders.

HERR PELCKMANN: Then what did you do?

MORGEN: On the basis of this insight, I realized that something had to be done immediately to put an end to this action. Hitler had to be induced to withdraw his orders. Under the circumstances, this could be done only by Himmler as Minister of the Interior and Minister of the Police. I thought at that time that I must endeavor to approach Himmler through the heads of the departments and make it clear to him, by explaining the effects of this system, that through these methods the State was being led straight into an abyss. Therefore I approached my immediate superior, the chief of the Criminal Police, SS Obergruppenführer Nebe; then I turned to

the chief of the Main Office SS Courts, SS Obergruppenführer Breithaupt. I also approached Kaltenbrunner and the chief of the Gestapo, Gruppenführer Müller, and Obergruppenführer Pohl of the Economic and Administrative Main Office, and the Reichsarzt, Gruppenführer Dr. Grawitz. But aside from taking these necessary steps, I saw a practical way open to me by way of justice; that is, by removing from this system of destruction the leaders and important elements through the means offered by the system itself. I could not do this with regard to the killings ordered by the head of the State, but I could do it for killings outside of this order, or against this order, or for other serious crimes. For that reason, I deliberately started proceedings against these men, and this would have led to a shake-up of this system and its final collapse. But these activities had another far-reaching effect in the near future, for through the big concentration camp trials against Commander Koch, of whom I spoke earlier, and against the head of the political section at Auschwitz—Kriminalsekretär Untersturmführer Grabner, whom I charged with murder in 2,000 cases outside of this extermination action—the whole affair of these killings had to be brought to trial. It was to be expected that the perpetrators would refer to higher orders also for these individual crimes. This occurred; thereupon the SS jurisdiction, on the basis of the material which I supplied, approached the highest government chiefs and officially asked, "Did you order these killings? Is the legal fact of murder no longer valid for you? What general orders are there concerning these killings?" Then the supreme State leadership would either have to admit its mistakes and thereby bring the culprits definitely under our jurisdiction also with regard to the mass exterminations, or else an open break would have to result through the abrogation of the entire judicial system. If I may anticipate, on account of the trial in Weimar against Koch and Grabner, this problem became acute as I had foreseen; the proceedings were suspended and the SS jurisdiction put these questions, which I mentioned before, publicly and officially to the Reich Security Main Office. For this very purpose a judge was sent there, who had the task of investigating all sections of the Reich Security Main Office, to see whether such orders were in existence. As I heard, the result was negative. Thereupon an attempt was made to take direct steps against Hoess, but in the meantime the front had advanced, Auschwitz was occupied and the judge who had been sent there had to stop at the beginning of his fruitless investigations, and in January 1945 complete disorganization set in which made further legal prosecution impossible. If I may go back, the immediate effects of the judicial investigation were that in all concentration camps the killing of prisoners by so-called "euthanasia" stopped immediately, because no doctor could feel sure that he would not be arrested from one moment to the next. Everybody

bore in mind the example that was set by the case of the doctor of Buchenwald. I am convinced that through this intervention and action the lives of thousands of prisoners were saved. The killing system was severely shaken; for it is noteworthy that on my second visit to Lublin, shortly after I first approached Kriminalkommissar Wirth, I did not find him there. I learned that in the meantime Wirth had suddenly received orders to completely destroy all his extermination camps. He had gone to Istria with his entire command, and was guarding streets there, and while doing so he was killed in May 1944. When I heard that Wirth and his command had left Lublin I immediately flew there in order to find out whether he was merely transferring his field of activity and would continue elsewhere, but that was not so.

HERR PELCKMANN: Witness, were you in danger of your life in all these investigations?

MORGEN: It was clear that the discovery of these horrible crimes was extremely unpleasant to those responsible for them. I knew that a human life meant nothing to these people and that they were ready for anything. As proof, I may cite the following: after I had arrested Grabner, the chief of the political section in Auschwitz, and the investigating commission . . .

THE PRESIDENT: You aren't forgetting that you said you were going to take 45 minutes with this witness, are you, Herr Pelckmann?

HERR PELCKMANN: No, Your Lordship, I have not forgotten, and I regret exceedingly that it is taking longer than I expected, but I believe that I owe the Tribunal this explanation of the facts.

THE PRESIDENT: It seems of very little importance whether this man was in danger of his life or not.

HERR PELCKMANN: From the point of view of the defense, Your Lordship, I am of a different opinion, since for the conditions and possibilities of opposing this system, and for Number 1 of the ruling of the Court of 13 March, or rather Number 2, compulsion and orders are of decisive importance.

THE PRESIDENT: Go on, Herr Pelckmann. The Tribunal does not think it is important.

MORGEN: May I say one more sentence on that subject: the investigating commission of the Reich Criminal Police Department at Auschwitz was quartered in wooden hutments, and after it had worked with success for some time, unknown persons at night destroyed the hutments by fire with all the documents. The investigations in Auschwitz were interrupted and made difficult for a long time. You may see from that how ruthless was the opposition

to us. I, myself, received enough warnings and threats, but whether I was actually in danger of my life I cannot say.

HERR PELCKMANN: Did the directing personnel of the Concentration Camp Auschwitz in any way justify the assumption that they knew of these exterminations? I emphasize again—if I understood you correctly—the Concentration Camp Auschwitz, with its many labor camps, had nothing to do with the extermination camp and was separate from it?

MORGEN: As I have already said, Hoess was simultaneously commander of Auschwitz and Monowitz; he is to be considered the chief of the personnel, aside from the one leader of the Monowitz troops. I dealt only with these two, and these two knew about it.

HERR PELCKMANN: Did you speak to the doctor of the Concentration Camp Auschwitz?

MORGEN: Yes. When I arrived, the doctor showed me the mortality figures at the time he took over. He pointed out with a gleam in his eye how since his transfer to Auschwitz these huge figures had dropped precipitately through extensive hygienic measures and changes. In this connection he came to talk about Grabner. Grabner had expected him to kill pregnant Polish women. The doctor had refused since it was irreconcilable with his professional duties. Thereupon Grabner had reproached him for not realizing the importance of his, Grabner's, tasks. The doctor did not give in and a quarrel arose which was carried on before the commander, and neither Hoess nor Grawitz said anything. Thus the doctor, at the time when I met him by accident, was in a distressed frame of mind and said "What shall I do?" I said to him "What you have done so far, absolute refusal, is quite in order, and tomorrow I will arrest Grabner."

THE PRESIDENT: What does this have to do with the SS unless the doctor was in the SS; perhaps he was.

HERR PELCKMANN: It is well known that the doctors were SS doctors, and the witness is describing how an SS doctor in this Concentration Camp Auschwitz opposed the suggestion of Grabner. He is describing that as a typical case.

THE PRESIDENT: Herr Pelckmann, the Tribunal thinks you have been quite long enough over this witness. You are going into matters too much in detail.

HERR PELCKMANN: You said previously that you had reported to the various agencies and named three of them, I believe. Please describe how Nebe reacted. What was Breithaupt's attitude? What did Kaltenbrunner and Müller say? What was Pohl's attitude, and how did the Reich Physician Grawitz react?

MORGEN: First I reported to my immediate superior, SS Gruppenführer Nebe, as chief of the RKPA. Nebe was an extremely taciturn man, but I could see that his hair stood on end when I made my report. He was absolutely silent. Then he said that I must immediately report this matter to Kaltenbrunner. The chief of the Hauptamt SS Courts, Obergruppenführer Breithaupt, also became very much excited. He said that he would immediately go to see Himmler and report this to him and try to have a personal interview with Himmler arranged for me. The Reich Physician also did not know what to say. Obergruppenführer Pohl, however, took another attitude. Previously, or about the same time, I had had the commander of the Concentration Camp Hertogenbosch arrested, who had caused the death of 10 women through punitive measures. When I reported this to Pohl he said these were trifles. He said, "What do the lives of 10 women matter in view of the thousands of German women dying every night in the air raids?"

HERR PELCKMANN: Please be more brief on the others.

MORGEN: After I had already reported to Obergruppenführer Kaltenbrunner about the actual corruption crimes, the deadly crimes which I discovered about 6 months later, a conversation took place in the presence of Nebe, Kaltenbrunner, and Müller. This discussion was extraordinarily one-sided. Kaltenbrunner and Nebe were absolutely silent while Müller, white with rage, was infuriated with me and did not give me a chance to get in a word. When I looked at him calmly, he suddenly jumped up and rushed out of the room and left me alone, while the other two gentlemen turned away from me. In the afternoon I went to see Müller again and personally told him my point of view once again, but Müller was still absolutely against it.

HERR PELCKMANN: Very well, did you . . .

THE PRESIDENT: What was the date of this conversation with Kaltenbrunner?

MORGEN: That was immediately after the charge was raised against Grabner. I assume in July or August 1944.

HERR PELCKMANN: Did you report these things to other circles of the SS?

MORGEN: No. I wanted to inform and win over those people, who really had something to say, to my point of view. Nothing else counted. Besides that, I was bound by Basic Order Number 1, concerning secrecy on State affairs, and could only approach the chiefs of the main offices personally. Any mistake I would have made in contacting other offices would have had serious results for me and would have given my enemies a pretext for protracting the investigation.

THE PRESIDENT: Dr. Pelckmann, he said he did not report it. Surely that is sufficient. We don't want to know more about it. He did not report. We are not trying the witness.

HERR PELCKMANN: I beg your pardon, I believe that is a mistake, if I understood correctly. He said he did report.

THE PRESIDENT: He said he made no other report, as I understood it, except this that he has spoken of.

HERR PELCKMANN: Witness, will you comment on that?

MORGEN: That is true. Aside from the chief of the Main Office of the SS, no one else was informed.

HERR PELCKMANN: Did you not consider it your duty to inform the public or to clear your conscience somehow by raising the cry "murder"?

MORGEN: I would have needed access to the technical means for doing this, that is to the press and the radio, which I did not have. If I had blurted that out at every street corner, no one would have believed me, because this system was beyond human imagination. I would have been locked up as insane.

HERR PELCKMANN: The Camp Dachau was here described as a pure extermination camp by the Prosecution and by certain witnesses. Is that true?

MORGEN: I believe that from my investigation from May to July 1944 I know the Concentration Camp Dachau rather well. I must say that I had the opposite impression. The Concentration Camp Dachau was always considered a very good camp, the prisoners considered it a rest camp, and I actually did get that impression.

HERR PELCKMANN: Did you see the internal arrangements, the hospital, and so forth?

MORGEN: I examined all these facilities carefully, and I must say the hospital was in excellent order. I went through all the wards. There was no noticeable overcrowding, and remarkably enough the number of medical instruments which were at the service of the prisoners was astonishing. Amongst the prisoners themselves were leading medical specialists.

HERR PELCKMANN: Very well. You want to say that conditions were good. But you thereby contradict the testimony of the witness, Dr. Blaha, which was made the subject of evidence here. Do you know his testimony?

MORGEN: I have read the testimony of Dr. Blaha in the press, and here I have had the opportunity to look through the record of the Trial. I must say I am amazed at this testimony. I am of the opinion that Blaha, from his own knowledge, cannot make such

statements. It is not true that a prisoner in a concentration camp can move about freely and have access to the different sections and installations.

THE PRESIDENT: The Tribunal thinks he can say that he disagrees with the evidence of Blaha, but not that Blaha was not telling the truth. He disagrees, he said it. We think you might get on. How much more time do you anticipate that you'll take?

HERR PELCKMANN: Five minutes, Your Lordship.

You were just about to say, Witness, why you did not agree with the testimony of Blaha?

MORGEN: I said . . .

THE PRESIDENT: He has given his own evidence about the matter, and he says he is in contradiction with Blaha. We don't want further details about it.

HERR PELCKMANN: Mr. President, if I understood correctly, the witness is to give more credible testimony. If he does not say that on such and such points of the testimony of Blaha he has such and such an objection, the Prosecution can say he did not comment on it. That is my endeavor. Please instruct me, Your Lordship, if I am mistaken.

THE PRESIDENT: He has given his account on the camp at Dachau. The Tribunal has before it the evidence and testimony of Blaha. The Tribunal can see for itself if the evidence is inconsistent. That is sufficient.

HERR PELCKMANN: I only attempted to give the reasons, but if the Court does not wish to go into it further, I will withdraw the question.

[Turning to the witness.] Will you briefly sum up? I would rather go on to the last question which is of importance regarding your credibility. Did you give the testimony in the way you have given it here once before?

MORGEN: Yes. At the time of the collapse I was chief justice in Breslau. When I came to Germany after some time, I heard the CIC was looking for me on account of my knowledge about concentration camps. I reported to the CIC headquarters Mannheim-Seckenheim, 7th Army, and said I was ready to help clear up these crimes. I gave my testimony on the same lines which I attempted to follow today. I went to the CIC headquarters, Oberursel, and after I had given my testimony, I was locked up in a bunker in Dachau, together with the accused people whom I had previously arrested myself.

HERR PELCKMANN: Very well. Do you know the pamphlet *SS-Dachau* which I submitted to the Tribunal yesterday and which

I should like to designate as Exhibit SS-4? Do you know this document? Answer "yes" or "no."

MORGEN: Yes.

HERR PELCKMANN: On Page 46, there is the testimony of a Mrs. E. H. Was this testimony made before you as the investigating judge?

MORGEN: Yes, this was a Mrs. Eleanora Hodis, a prisoner in Auschwitz; I questioned her under oath.

HERR PELCKMANN: And did you examine the article and make certain this was the evidence which the woman gave? Yes or no.

MORGEN: Yes.

HERR PELCKMANN: When was that?

MORGEN: In the fall of 1944.

HERR PELCKMANN: The testimony is against Hoess?

MORGEN: Yes.

HERR PELCKMANN: Were proceedings then instituted against Hoess?

MORGEN: Yes. The testimony was submitted to Hoess in the original.

HERR PELCKMANN: The testimony concerns conditions in Auschwitz; is that true?

MORGEN: Yes.

HERR PELCKMANN: It is not true that it concerns the situation in Dachau?

MORGEN: No.

THE PRESIDENT: The Tribunal will take a recess.

[A recess was taken.]

DR. RUDOLF MERKEL (Counsel for the Gestapo): Mr. President, I should like to be permitted to put three brief questions to this witness, concerning nonparticipation and ignorance on the part of the Gestapo as far as the mass extermination is concerned.

THE PRESIDENT: You may.

DR. MERKEL: Witness, if I understood you correctly, the crimes of Kriminalkommissar Wirth in Lublin were discovered because of a report of the Security Police in Lublin.

MORGEN: Yes.

DR. MERKEL: Did the Security Police in Lublin participate in these crimes in any way?

MORGEN: No. As I saw it that was not the case.

DR. MERKEL: The witness Best stated that the camps at Treblinka and Maidanek were under the supervision of the Security Police. Is that correct?

MORGEN: I know nothing about that. Wirth explained that he had four extermination camps. I believe the name Treblinka was mentioned in that connection.

DR. MERKEL: According to your conviction, this camp as well was under Wirth?

MORGEN: I assumed that.

DR. MERKEL: Did you wish to execute an order of the SS Court to arrest Eichmann?

MORGEN: I asked the SS Court at Berlin to investigate Eichmann on the basis of my report. The SS Court in Berlin thereupon submitted to the chief of the Reich Security Main Office, SS Obergruppenführer Kaltenbrunner, in his capacity as highest judge, a warrant to arrest Eichmann.

Dr. Bachmann reported to me that on the submission of this matter rather dramatic incidents took place.

Kaltenbrunner immediately called in Müller, and now the judge was told that an arrest was in no event to be considered, for Eichmann was carrying out a special secret task of utmost importance entrusted to him by the Führer.

DR. MERKEL: When was that?

MORGEN: That was in the middle of 1944.

DR. MERKEL: Thank you, I have no further questions to put to this witness.

DR. GAWLIK: Your Lordship, may I be permitted to put a few questions, please?

THE PRESIDENT: Yes.

DR. GAWLIK: Witness, you spoke about orders of the Reich Security Main Office. From which offices of the Reich Security Main Office did these orders come?

MORGEN: Do you mean the orders for the mass extermination?

DR. GAWLIK: Yes.

MORGEN: I stated that the SS jurisdiction . . .

DR. GAWLIK: Answer the question briefly, please. Which offices issued these orders?

MORGEN: I said that the investigating judge could not establish the origin of such orders to my knowledge.

DR. GAWLIK: You spoke of the orders of the Reich Security Main Office, did you not?

MORGEN: I said that the accused Koch and Grabner, in answering for their killings, referred to orders of the Reich Security Main Office and maintained that these orders had to be destroyed as soon as they were received. That was purely an assertion and therefore this statement had to be investigated.

DR. GAWLIK: Did you ascertain that the Offices III, VI, and VII were in any way participating in these measures?

MORGEN: I have already testified that Wirth's undertaking directly . . .

DR. GAWLIK: Can you answer this question with a "yes" or "no"?

MORGEN: I could not determine that.

DR. GAWLIK: Thank you. I have no further questions to the witness.

THE PRESIDENT: Does the Prosecution wish to cross-examine?

SIR DAVID MAXWELL-FYFE: The Prosecution very carefully considers the question of cross-examining this witness. We do not accept his evidence as to Buchenwald, Dachau and as to conditions in concentration camps generally. We feel, however, the Tribunal has been shown such an overwhelming amount of evidence, including films and exhibits of the consistent pattern of cruelties in the concentration camps, of the smelling chimneys of the crematoria, and of the persons who carried out these actions, that we consider that any further discussion of these matters should be by way of comment and that it would not be right to take up the time of the Tribunal by confronting this witness with the details of that evidence which is so fully in the Tribunal's mind.

THE PRESIDENT: The witness may retire. Is that your case?

HERR PELCKMANN: Yes.

[The witness left the stand.]

THE PRESIDENT: The Prosecution wants to cross-examine the witness Sievers. We will call for Wolfram Sievers.

[The witness Sievers took the stand.]

THE PRESIDENT: What is your name?

WOLFRAM SIEVERS (Witness): Wolfram Sievers.

THE PRESIDENT: Will you repeat this oath after me:

I swear by God—the Almighty and Omniscient—that I will speak the pure truth—and will withhold and add nothing.

[The witness repeated the oath.]

THE PRESIDENT: You may sit down.

MAJOR JONES: You are Wolfram Sievers, and from 1935 on you were Reich manager of the Ahnenerbe (Ancestral Heritage Society), were you not?

SIEVERS: I was the Reich manager of the Ahnenerbe.

MAJOR JONES: You recollect that on 27 June you gave evidence before the Commissioner appointed by this Tribunal?

SIEVERS: Yes.

MAJOR JONES: I am referring to the transcript of your evidence before the Commission.

Do you recollect that Dr. Pelckmann, the counsel for the SS, announced that he was calling you to show that this Ahnenerbe did not know of the biological experiments of the group by Dr. Rascher, performed on concentration camp inmates?

SIEVERS: Yes.

MAJOR JONES: And do you remember that when Dr. Pelckmann asked you:

"Did you have any possibility of having an insight into the circumstances relating to or the planning of the methods or the carrying out of these scientific research works of the military scientific department," you answered "No?"

SIEVERS: I recall that.

MAJOR JONES: And when I cross-examined you upon your testimony do you recall telling the Commissioner that Himmler and Rascher were very close friends and you did not know exactly what went on? Do you remember that?

SIEVERS: I said that I was informed about these matters only in general but not in particular.

MAJOR JONES: In my final question to you in cross-examination I asked you:

"How many people do you estimate were murdered in connection with Rascher's and other experiments carried out under the guise of Nazi science?" And to that question you gave this answer: "I cannot say because I had no insight into these matters."

Do you remember that?

SIEVERS: Yes, indeed.

MAJOR JONES: Well now, I want to see whether or not you did have insight into these matters. Did you ever hear of Professor Hirt's skeleton collection?

SIEVERS: That is in connection with the anatomy at the University of Strasbourg. . . .?

MAJOR JONES: I asked you, did you hear about it?

SIEVERS: Yes, indeed, I did hear of it.

MAJOR JONES: You played a very active part in the creation of that collection of skeletons, did you not?

SIEVERS: I did not understand the end of the question.

MAJOR JONES: You played an active part in the collection of these skeletons?

SIEVERS: No.

MAJOR JONES: I want you to look first at the Document Number 116.

It is an insertion into the Tribunal's document book at Page 1901. It follows Page 19 in Your Lordship's document book. It will be Exhibit GB-573.

[Turning to the witness.] Now we shall be able to test your ignorance of this collection. This is a letter from Brandt to the Reich Security Main Office, dated 6 November 1942. Brandt was Himmler's adjutant, was he not?

SIEVERS: He was his personal secretary.

MAJOR JONES: Now, this letter:

"Subject: Organization of a skeleton collection in the Anatomical Institute of Strasbourg.

"The Reichsführer SS has ordered that everything necessary for the research work of the director of the Anatomical Institute Strasbourg, SS Hauptsturmführer Professor Dr. Hirt, who is at the same time chief of a branch of the Institute for Scientific Research for Specific Military Purposes in the Amt Ahnenerbe, should be placed at his disposal. By order of the Reichsführer SS, I therefore request you to make the organization of the planned skeleton collection possible. SS Obersturmbannführer Sievers will contact you for details."

Now, that Sievers is you, is it not?

SIEVERS: Yes.

MAJOR JONES: Were you contacted for details?

SIEVERS: This refers to the organization of the Anatomical Institute of the University of Strasbourg which had recently been reopened by us, that is, to the reorganization of the so-called Anatomical Museum, an institution which exists in all universities.

MAJOR JONES: This was just a piece of academic research, was it?

SIEVERS: Yes.

MAJOR JONES: Where were you going to get the skeletons from?

SIEVERS: Particulars were to be handled by Professor Hirt...

MAJOR JONES: Now just answer my question, Witness, because you know perfectly well the answer to it. Where were you going to get those skeletons from?

SIEVERS: They were to be put at our disposal by Auschwitz.

MAJOR JONES: Now, I want you to look at a letter in furtherance of Brandt's communication which you sent to Brandt, containing suggestions as to where those skeletons should come from.

It is Document Number 085, which will be GB-574. It is at Page 11 of the document book, My Lord. It is at Page 14 and 15 of the German document book.

Now, that is a letter headed Das Ahnenerbe, dated 9 February 1942, marked "secret." It is addressed to Brandt, Himmler's adjutant. It is your letter, Witness, is it not, it is your signature at the bottom of it?

SIEVERS: Yes.

MAJOR JONES: I will read it out.

"Dear Comrade Brandt:

"I am sorry I was not able to send to you before Professor Dr. Hirt's report, which you requested in your letter of 29 December 1941, because Professor Hirt was taken seriously ill."

Then there follow details of his illness.

"Due to this, Professor Hirt was merely able to write a preliminary report which, however, I should like to submit to you. The report concerns:

"1. His research in the field of microscopic living organs; the discovery of a new method of examination and the construction of a new research microscope.

"2. His proposal for securing skulls of Jewish-Bolshevik commissars."

Then there is your signature and you forwarded that letter and Professor Hirt's report and his suggestions, and this is Hirt's report:

"Subject: Securing of skulls of Jewish-Bolshevik commissars for the purpose of scientific research at the Reich University of Strasbourg.

"We have large collections of skulls of almost all races and peoples at our disposal. Of the Jewish race, however, only very few specimens of skulls are available, with the result that it is impossible to arrive at precise conclusions from examination. The war in the East now presents us with the opportunity to overcome this deficiency. By procuring the skulls of the Jewish-Bolshevik commissars, who represent the prototype of the repulsive, but characteristic, subhuman, we have the chance now to obtain scientific material.

"The best practical method for obtaining and collecting this skull material could be followed by directing the Wehrmacht to turn over alive all captured Jewish-Bolshevik commissars to the Feldpolizei. The Feldpolizei, in turn, would be given special directives to inform a certain office at regular intervals of the numbers and places of detention of these captured Jews, and to give them close attention and care until a special delegate arrives. This special delegate, who will be in charge of securing the material (a junior physician of the Wehrmacht or the Feldpolizei, or a student of medicine equipped with a motor car and driver), will be required to take a previously stipulated series of photographs, make anthropological measurements, and, in addition, determine as far as possible descent, date of birth, and other personal data.

"Following the subsequently induced death of the Jew, whose head should not be damaged, the physician will sever the head from the body and will forward it to its proper point of destination in a hermetically sealed tin can especially made for this purpose and filled with a conserving fluid. Having arrived at the laboratory, the comparison tests and anatomical research on the skull, as well as determination of the race membership and of pathological features of the skull form, the form and size of the brain, *et cetera,* can be undertaken by photos, measurements, and other data supplied on the head and the skull itself."

That was the report which you forwarded to Brandt?

SIEVERS: Yes, that was the report of Professor Hirt.

MAJOR JONES: How did the collection of these skeletons from the living proceed?

SIEVERS: I cannot give you the exact details. In earlier interrogations I pointed out that Professor Hirt would have to be asked himself about this matter.

MAJOR JONES: Now, Witness, I want to give you another opportunity of telling the truth. Are you saying to this Tribunal

that you do not know what happened with regard to the progress of that collection of skulls and skeletons?

SIEVERS: That may be seen from the report itself. Persons were then assigned for this task by order of Himmler.

MAJOR JONES: Who put the actions into operation; did you have anything to do with it, with the collection of the bodies?

SIEVERS: No, nothing at all, and I do not know either in what way this whole matter developed, since the direct correspondence and the conferences which had taken place previously between Himmler and Hirt are things I know nothing about. Hirt was an old . . .

MAJOR JONES: Well now, Witness, I have given you an opportunity of protecting yourself from perjury. You have not taken it. Look at the next Document Number 086, which is on Page 13 of the document book. It will be GB-575. That is another of your letters. It is another letter of yours, again to Himmler's adjutant. It is marked "secret." It is dated 2 November 1942. Page 13 of your document book, My Lord.

> "Dear comrade Brandt: As you know, the Reichsführer SS has directed that SS Hauptsturmführer Professor Dr. Hirt be supplied with everything needed for his research work. For certain anthropological researches—I already reported to the Reichsführer SS on them—150 skeletons of prisoners, or rather Jews, are required, which are to be supplied by the Concentration Camp Auschwitz. The only thing that remains to be done is for the Reich Security Main Office to receive an official directive from the Reichsführer SS. This however, can also be given by you, acting for the Reichsführer SS."

You had already been discussing this with Himmler, Witness, had you not? You were his agent for collecting these living men to turn them into skeletons?

SIEVERS: That does not apply in this form. The entire matter covered such a long period of time that I am not able to reconstruct the entire connection on the spur of the moment, as I was concerned only with particulars.

MAJOR JONES: I am sure you are not in a hurry to reconstruct them, as I am sure you could do. For the second time in regard to this matter you have taken an oath, and I want you to give some indication that you know what an oath means. You are a man of education.

Look at the next document, Number 089, to refresh your memory as to how distant you were from this matter. It becomes GB-576.

THE PRESIDENT: It came through as 089. Do you mean 089?

MAJOR JONES: 089, Page 16 of Your Lordship's document book.

[Turning to the witness.] That is a letter from Brandt to the RSHA, dated 6 November 1942, marked "Secret." It is for the attention of SS Obersturmbannführer Eichmann of the RSHA. Reference is "Establishment of a collection of skeletons at the Anatomical Institute at Strasbourg."

SIEVERS: Yes.

MAJOR JONES: "The Reichsführer SS has issued a directive to the effect that SS Hauptsturmführer Professor Dr. Hirt, who is the director of the Anatomical Institute at Strasbourg and the head of a department of the Institute for Scientific Research for Specific Military Purposes in the Office Ahnenerbe, be furnished with everything he needs for his research work. By order of the Reichsführer SS, therefore, I ask you to be of assistance in bringing about the planned collection. SS Obersturmbannführer Sievers will get in touch with you to discuss the details."

Do you still say you know nothing of the details of this matter?

SIEVERS: I did not say that at all. Here we are concerned with the entire historical development of this matter, and in that connection I just cannot say from what moment on this matter started, for that can be traced back directly to conversations between Himmler and Hirt, which took place before Hirt became director of anatomy at Strasbourg University. In that capacity, he had the opportunity of carrying out his task of setting up a modern anatomical institute supplied with the necessary modern scientific facilities and collections. Thereupon Hirt, in view of his previous conversations with Himmler, made the application as may be seen from the report. Then I received the order to help Hirt in this task assigned to him by Himmler. I do not know whether Himmler himself . . .

MAJOR JONES: Just a moment, Witness. How many human beings were killed to create this collection of skeletons?

SIEVERS: 150 people are mentioned in this report.

MAJOR JONES: That was all you assisted in murdering, was it?

SIEVERS: I had nothing to do with the murdering of these people. I simply carried through the function of a mailman.

MAJOR JONES: You were the post office, another of these distinguished Nazi post offices, were you?

SIEVERS: If you wish to refer, as I gather from your question, to my interrogation before the Commission, I must point out that in the interrogation before the Commission only the group Rascher was under discussion.

MAJOR JONES: I asked you quite clearly when I cross-examined you before the Commission: "How many people do you estimate were murdered in connection with the Rascher and other experiments carried out under the guise of Nazi science?" and you told me, "I cannot say, because I had no insight into these matters at all." Fortunately there are records of what you witnesses say available.

Now, just turn to the next document, Number . . .

SIEVERS: Even today I cannot give definite dates, and I do not know the exact number of persons used by Rascher for experiments. Therefore I cannot tell you that there were a certain number, since I do not know.

MAJOR JONES: You swore to the Commissioner that you had no insight into these matters. Turn to Document 087, so that your memory may be refreshed.

That will be GB-577. It is Page 14 of Your Lordship's document book.

[Turning to the witness.] This is another of your letters. It is headed: "Amt Ahnenerbe," "Institute of Scientific Research for Military Purposes." You were the director of that institute, were you not?

SIEVERS: Yes. I was the Reich manager.

MAJOR JONES: Yes. This is dated 21 June 1943. It is marked "Top Secret," to the RSHA, Department IV B 4, for the attention of SS Obersturmbannführer Eichmann. "Subject: Establishment of a collection of skeletons."

> "Referring to your letter of 25 September 1942 . . . and the personal conversations which have since taken place on this subject, I wish to inform you that our collaborator, SS Hauptsturmführer Dr. Haagen, who was in charge of the above special project, broke off his experiments in the Concentration Camp Auschwitz on 15 June 1943 because of the existing danger of epidemics.
>
> "Altogether 115 persons were experimented on . . ."

Let me just pause there for a moment. What form of experiments were going on on these human beings with a view to the collection of skeletons? What sort of experiments were they, Witness?

SIEVERS: Anthropological measurements.

MAJOR JONES: Before they were murdered, they were anthropologically measured? That was all there was to it, was it?

SIEVERS: And casts were taken.

MAJOR JONES: It does not take very long to make an anthropological measurement or to take a cast, you know, Witness. There were some other experiments than measurements and casts carried out on these unfortunate victims of your science, were there not?

SIEVERS: I am not familiar with this type of work in Auschwitz. I know only that anthropological measurements were taken, but I do not know how long these measurements took.

MAJOR JONES: I will continue your letter now, which makes it quite clear that there must have been something far more sinister than anthropological measurements.

"Altogether 115 persons were experimented on. 79 were Jews; 30 were Jewesses, 2 were Poles and 4 were Asiatics. At the moment these prisoners are segregated by sex and are under quarantine in two hospital buildings of the Concentration Camp Auschwitz.

"For further experimentation on these selected prisoners it will be necessary to have them transferred to the Concentration Camp Natzweiler. This transfer should be made as speedily as possible in view of the existing danger of an epidemic at Auschwitz. A list of the people selected is attached.

"It is requested to issue the necessary directives. Since this transfer of prisoners presents a certain amount of danger of spreading the epidemic to Natzweiler, we request that immune and clean prisoner clothing for 80 men and 30 women be sent from Natzweiler to Auschwitz immediately. At the same time lodgings should be prepared for the women at Natzweiler for a short time."

That is your letter. If your only interest in these unfortunate people was their anthropological measurements and the securing of their frail bones for skeletons, why did you not kill them straightaway? You must have made experiments on them, the results of which you wanted to discover, did you not?

SIEVERS: No, I know nothing whatever of experiments, and such experiments were not carried on.

MAJOR JONES: What happened to this collection of skeletons? Where was it assembled?

SIEVERS: It was taken to Natzweiler, and the further treatment was in the hands of Professor Hirt.

MAJOR JONES: After SS Professor Hirt and the other SS men had murdered these people, what happened to their bodies? Where were they sent?

SIEVERS: I assume that they were taken to the Anatomical Institute at Strasbourg.

MAJOR JONES: Have you any doubt in your mind about that, Witness? You seem to be hesitant about admitting it. Have you any doubt?

SIEVERS: Well, I have seen no reports about that and did not receive any.

MAJOR JONES: Did you have anything to do with the disposal of those skeletons and those bodies ultimately? Did you have anything to do with the ultimate disposal of those bodies? I appreciate your difficulty in answering the question.

SIEVERS: No. That was in the hands of Professor Hirt. I was not at Strasbourg or Natzweiler in this connection at all.

MAJOR JONES: Did you make any suggestion as to what should happen to the collection at any time?

SIEVERS: It was much later, when questions arose concerning the occupation of Strasbourg and where the collection was to be deposited.

MAJOR JONES: What did you do then?

SIEVERS: I believe a conference took place—I cannot exactly tell you with whom—to obtain a decision on the part of Himmler as to where the collection was to be housed.

MAJOR JONES: Were you present at that conference?

SIEVERS: I did not talk with Himmler about that matter then.

MAJOR JONES: Did you make any suggestion as to what should happen and what should be done with the human bodies that you had assembled at Strasbourg? Did you have any suggestions to make?

SIEVERS: I cannot say any more. I no longer remember.

MAJOR JONES: Just try to recollect, will you? I'm sure you know. It was 1944. It's not very long ago. I'm sure it must be very vivid in your memory.

SIEVERS: I am sorry; I cannot give you an exact answer because I do not remember.

MAJOR JONES: Witness, when the Allied armies were approaching Strasbourg and the day of reckoning was coming for you, what suggestion did you make with regard to these bodies in Strasbourg? Tell the Court.

SIEVERS: I said that I asked Himmler to make a decision as to what was to become of this collection. This was an affair which originated from conversations and ideas between Himmler and Hirt, and I was drawn into it because of the administrative and technical dispatch of the matter; and therefore Himmler alone could decide what was to be done.

MAJOR JONES: I've again given you an opportunity to protect yourself from perjury. Look at the Document Number 088 at Page 15 of Your Lordship's document book; it will be GB-578. This is another of the letters from your personal staff to Brandt, Himmler's adjutant; and it is addressed to the Reichsführer SS, Personal Staff Department; and that's the Ahnenerbe. It was dated 5 September 1944. It is marked "Top Secret." The Allied armies were advancing towards Strasbourg, weren't they, by then?

SIEVERS: Yes, that is correct.

MAJOR JONES: The subject is "Collection of Jewish skeletons."

"According to the proposal of 9 February 1942 and your approval of 23 February 1942 . . . Professor Dr. Hirt has assembled the skeleton collection which was previously nonexistent. In view of the vast amount of scientific research connected therewith, the job of reducing the corpses to skeletons has not yet been completed. Since this requires some time for 80 corpses, Hirt requests directives as to what should be done with the collection stored in the morgue of the Anatomical Institute in case Strasbourg should be endangered.

"The corpses can be stripped of the flesh and thereby rendered unidentifiable. This, however, would mean that at least part of the whole work had been done for nothing and that this unique collection would be lost to science, since it would be impossible to make plaster casts afterwards. The skeleton collection as such is inconspicuous. The flesh parts could be declared as having been left by the French at the time we took over the Anatomical Institute and would be turned over for cremating. Please advise me which of the following three proposals is to be carried out: 1) The collection as a whole to be preserved; 2) The collection to be dissolved in part; 3) The collection to be completely dissolved."

Why were you wanting to deflesh the bodies, Witness?

SIEVERS: In this connection I must say that this letter reached me as an inquiry from Professor Hirt and was passed on by me in this teletype letter. As I said previously, for this reason I could not exactly remember it, for as a layman the entire manner of treatment was totally unknown to me.

MAJOR JONES: Why were you suggesting that the blame should be passed on to the French? You knew there was murder in connection with this collection, didn't you? You knew it perfectly well, Witness.

SIEVERS: I just said that I transmitted an inquiry from Professor Hirt; and that explains that I could not put an inquiry of my own in this form, for I as a layman could have no opinion in this

matter. I stated that this was an inquiry by Hirt which was passed on by me.

MAJOR JONES: Were you able to carry out the suggestion of the defleshing of these bodies?

SIEVERS: I cannot tell you anything about that, for I cannot quite imagine how it was done.

MAJOR JONES: Happily, again there is a document which indicates the whole story. Just look at it, because it is clear that you have no intention of telling the truth; Document Number 091, Exhibit GB-579. There are two following notes from Himmler's file. The first note, signed by SS Hauptsturmführer Berg:

"On 12 October 1944 I had a telephone conversation with SS Standartenführer Sievers and asked him if the Strasbourg skeleton collection had been completely dissolved as directed by SS Standartenführer Baumert. SS Standartenführer Sievers could not advise me on that matter since he had not as yet heard anything further from Professor Hirt. I told him that in case the dissolution had not yet been carried out, a certain part of the collection should be preserved. However, every guarantee must be given that a complete dissolution could be made in time in case Strasbourg should be in danger. SS Standartenführer Sievers promised me that he would find out about it and let me know."

And then the next entry, on 26 October 1944, a note for Dr. Brandt:

"During his visit at the operational headquarters on 21 October 1944, SS Standartenführer Sievers told me that the collection in Strasbourg had been completely dissolved in the meantime in accordance with the directive given him at the time. He is of the opinion that this arrangement is for the best in view of the whole situation."

SIEVERS: The authenticity of my testimony can be seen from the remarks of Hauptsturmführer Berg, for he says "Standartenführer Sievers could not advise me on that matter since he had not as yet heard anything further from Professor Hirt." So in every respect I was always dependent upon the statements, reports, and proposals of Professor Hirt. My own attitude in these matters did not play any role whatsoever. As I have already mentioned in the interrogations before the Commission, I was not responsible for any action taken, nor could I prevent any action.

MAJOR JONES: You were the business manager in this scientific experiment in murder, weren't you. That was your function? You were a vital cog in the machine of this "Ahnenerbe"?

SIEVERS: It was by no means an important part, as may be seen from the Commission findings. The "Ahnenerbe" comprised more

than 50 departments and had great research projects on a scientific basis in accord with its original intentions. It occupied itself with these projects so exclusively that these matters, in which I think it became unfortunately involved through Himmler, hardly played any part in it at all. In vain did I try to prevent this connection.

MAJOR JONES: You go as far as to admit that certain unfortunate matters did arise in connection with the work of the Ahnenerbe, do you?

SIEVERS: I never disputed that in the past.

MAJOR JONES: What was your connection with the experiments on human beings in connection with the poison gas or poisoned chemical "Lost," experiments on counteragents for wounds caused by your preparation, "Lost"?

SIEVERS: Professor Hirt developed a therapeutic treatment for the curing of "Lost" wounds. In the development of this method of therapy, he experimented on himself, an experiment which seriously damaged his health, as can be seen from the documents submitted here now.

MAJOR JONES: Did he experiment on anyone other than himself?

SIEVERS: I shall continue. Himmler was interested in these experiments and was quite excited when he heard that Hirt had done these experiments on his own person; and in this connection he referred to a Führer decree that in the case of such experiments volunteers from among prisoners or criminals who had been sentenced to death should be chosen. Thereupon Hirt, and only at Himmler's request, made checks on 20 persons, that is, when he had already ascertained from his own experiments that lasting injury would not arise any longer. He further pointed out that it was much more important—and this was really our first working contact with Hirt—that sufficient experimental animals should be procured for the experiments, for at the outbreak of the war the supply of experimental animals had diminished to such an extent that necessary scientific experiments could no longer be carried out...

MAJOR JONES: Just a moment, Witness. Can't you answer my questions without going into these lengthy speeches? Did you substitute human beings for animals for the purpose of these experiments?

SIEVERS: You mean in connection with Professor Hirt?

MAJOR JONES: Certainly.

SIEVERS: Yes, I just said that after the experiments on his own person he experimented on 20 people who volunteered for this experiment.

MAJOR JONES: Did you write to Brandt in connection with the "Lost" experiments, explaining certain difficulties that you were getting with the Natzweiler Concentration Camp?

SIEVERS: I do not have the document before me.

MAJOR JONES: Don't worry yourself. Just try to answer my question. Don't worry whether you have the document before you. I appreciate it will be embarrassing if it is found. Just answer my question. Did you write to Brandt in connection with these "Lost" experiments, describing difficulties you were having from the concentration camp?

SIEVERS: I do not remember in detail what difficulties were involved. It may be that I wrote that.

MAJOR JONES: Try to recollect what you wrote about in connection with these "Lost" experiments, will you?

SIEVERS: Well, I can only mention now as before that these things came to me on the basis of notes and reports from Hirt and that I transmitted these matters without being able to recall them in detail, because these were single incidents among the great mass of my work, so that details could no longer remain in my memory after this length of time.

MAJOR JONES: I appreciate the mass of work you were involved in. I have four or five other experiments in murder to draw your attention to. But just look at the Document Number 092, Page 19 of Your Lordship's document book, GB-580. That is a letter from Brandt to you. It is addressed to you, SS Standartenführer Sievers, the Ahnenerbe society, dated 3 December 1942.

> "I have your note of 3 November 1942 in front of me today. At the time I could only speak to SS Obergruppenführer Pohl very shortly. If I remember correctly, he even sent me a letter informing me that he would have the deficiencies which you described taken care of, but I did not have time to enumerate them in detail. I had just received your letter the same morning on which I went to see SS Obergruppenführer Pohl. Therefore, it was impossible for me to read it beforehand. I only remembered what you had told me during our last conversation. If it should be necessary for me to take this matter up again, will you please let me know."

Now, what were those deficiencies which you had described in your note to Pohl? Just try to remember them.

SIEVERS: I cannot tell you what that dealt with in detail. Please show me the note.

MAJOR JONES: Can you not recollect at all what the difficulty was? Was it connected with the payment for the prisoners to be experimented on?

SIEVERS: I do not recall that.

MAJOR JONES: In any event, these experiments in connection with the "Lost" went on as far as April 1944, didn't they?

SIEVERS: I cannot tell you that from memory.

MAJOR JONES: Try to recollect. Didn't they go on until April 1944? Just look at Document Number 015. You are being totally uncooperative. That would be GB-581. That is another of your letters to the Reichsführer SS. On Page 6 of your document book, My Lord. To the Reichsführer SS, Personal Staff, Department A, your society. It is dated 11 April 1944. "Top secret." It is from you to Brandt.

"Subject: Führer's order of 1 March 1944.

"Dear Comrade Brandt: In accordance with orders, I got in touch with SS Brigadeführer Professor Dr. Brandt and informed him in Beelitz on 31 March about the research work conducted by SS Hauptsturmführer Professor Dr. Hirt. On this occasion I handed to him the plan for the treatment of L.-damage . . ."

That is "Lost" damage, is it not, Witness?

SIEVERS: Yes.

MAJOR JONES:

". . . worked out by Professor Hirt, a copy of which I enclose for you for presentation to the Reichsführer SS, if the occasion should arise. Professor Brandt tells me that he will be in Strasbourg in the first week in April and that he intends to discuss details with Professor Hirt then."

Now, you see that those experiments on human beings with this poison "Lost" went on right through to 1944, didn't they?

SIEVERS: No, it is not true that way. This letter goes back to the following: Professor Brandt was made commissioner general for questions pertaining to chemicals for warfare. I received a copy of this report appointing him, with instructions that now, since his appointment had taken place, I should have Hirt talk with Brandt. Hirt told me that he could not travel to see Brandt at Beelitz just for that. Therefore, at the request of Hirt, I went to see Brandt.

MAJOR JONES: All right, Witness. I want you to turn now to another aspect of your work, the Rascher experiments. You remember telling me that you had no insight into the Rascher experiments?

SIEVERS: I stated that I had a general insight, but knew nothing of particulars.

MAJOR JONES: I want you to look now at your diary for the year 1944, the Ahnenerbe Diary, Document Number 3546-PS. It has

already been marked Exhibit GB-551. Your Lordship will find a few extracts from it at Page 29 of the document book. Witness, I have made certain extracts from your diary, and it might be convenient for you to follow those extracts, and if you want to check them against your own diary, you will be able to do so. They show how in that year you were intimately connected with Rascher and all these other murderous activities. The first entry is for 6 January, 1830 hours. SS Hauptsturmführer Dr. Rascher: Paragraph "c) Letter from Reichsführer SS to Obergruppenführer Pohl about assistance for scientific research work. d) Rooms for carrying through of freezing experiments."

They were at Dachau, weren't they?

SIEVERS: Yes, they were to be carried through, but as I have already said in the Commission interrogations, this was not done. These are notes about a conversation with Rascher in which he was reporting on these matters.

MAJOR JONES: Witness, are you saying that the freezing experiments at Dachau were not carried through?

SIEVERS: Rascher told me that he would not be able to carry through these experiments, that they would have to be carried through in a locality requiring constantly extremely cold temperatures, and so these experiments did not take place.

MAJOR JONES: But you actually saw some of these experiments yourself being carried out, didn't you, in Dachau? You were in Dachau from time to time?

SIEVERS: I am afraid that there is some confusion here between the freezing experiments by the Luftwaffe and the freezing experiments which were to be carried out later on in connection with the cold in the East. Here in the year 1944 we are concerned with the experiments in freezing . . .

MAJOR JONES: Which are the freezing experiments that you used to watch?

SIEVERS: I know only the freezing experiments carried on under the Luftwaffe.

MAJOR JONES: Did you see any of them being carried on?

SIEVERS: I had the order to accompany Professor Hirt who, together with Rascher, was to work on this problem and to arrive at a solution. I was present at one of those experiments.

MAJOR JONES: Now we will go to the Document Number 3546-PS, a little further. I have selected some random entries from it to show your close association with this matter. "23 January,

1130 hours, report to RFSS together with Obersturmbannführer Dr. Brandt. 1. We shall receive the reports of Professor Schilling." Now, Professor Schilling is the man who has been sentenced to death for his malaria experiments at Dachau, isn't he?

SIEVERS: Yes.

MAJOR JONES: He was also part of your team of scientists, wasn't he?

SIEVERS: We had nothing to do with Schilling at this report . . .

MAJOR JONES: You only received his reports, that is all; was it?

SIEVERS: That was the first time that the work of Schilling was mentioned to me at all. And Himmler explained at this meeting that Schilling had arrived at results on immunization which attracted attention. This report was to be given to us so that the Entomology Institute could take cognizance of the results that Dr. May had obtained in malaria experiments with the anopheles mosquito.

MAJOR JONES: We will go on to the next entry in the diary, 28 January. Your own diary has a daily entry of all the details, but here is another extract: "Co-operation with Institute R, Dachau"—that is Rascher's institute at Dachau, is it not?

SIEVERS: Yes.

MAJOR JONES: Then, 29 January, "With Hauptsturmführer Rascher and Dr. Pacholegg to Dahlem." Who was Dr. Pacholegg?

SIEVERS: Dr. Pacholegg was a prisoner whom Rascher was using as assistant.

MAJOR JONES: You knew him quite well yourself, I take it?

SIEVERS: I saw him perhaps two or three times.

MAJOR JONES: He was present at some of the experiments that you watched, was he not?

SIEVERS: They concerned work on a styptic preparation, Polygal . . .

MAJOR JONES: Just answer my question. Dr. Pacholegg was present at some of the experiments which you watched, was he not?

SIEVERS: He was a co-worker of Rascher's. Whether he was there all the time, I do not know.

MAJOR JONES: If you refuse to answer my question I shall not put it again. We will continue further in your diary:

"2 February. Ca-Research. First demonstration of live cancer cells and therapy. Hirt succeeded in demonstrating live cancer

cells and proving that tripoflavine enters the core of the cells as a cancer-cell-destroying coloring matter.... Protective vaccination against typhus*) by Professor Haagen. Protective vaccinations against typhus are being conducted in Natzweiler with satisfactory results."

Your Lordship, I have about half an hour of cross-examination.

THE PRESIDENT: We will adjourn now.

[The Tribunal adjourned until 9 August at 1000 hours.]

*) The German term "Fleckfieber" has occasionally been given in English as "spotted fever." Since this term is also applied to other diseases, the medical term "typhus" has been given preference.

ONE HUNDRED AND NINETY-NINTH DAY

Friday, 9 August 1946

Morning Session

[The witness Sievers resumed the stand.]

THE PRESIDENT: I think I said—at any rate I will say it again—that the Tribunal will sit in open session tomorrow until 1 o'clock.

MAJOR JONES: Witness, yesterday I was taking you through extracts of your diary for 1944. Have you a copy of those extracts in your possession at the moment? I am referring to the Document 3546-PS, which is GB-551.

I want to make it clear, My Lord, that the extracts which are in this Document 3546-PS are only sporadic extracts taken from the diary relating to the medical experiments. There are numerous other entries in the diary referring to other aspects of the activity of the "Ahnenerbe".

[Turning to the witness.] I had taken you yesterday to 2 February. Now, will you look at the entries for 22 February? You will see that you had a conference with a Dr. May, and there is an entry relating to co-operation with Dr. Plötner and Professor Schilling. What work was Dr. Plötner on at that time?

SIEVERS: I cannot hear the German translation.—I can hear now.

THE PRESIDENT: Have you heard the question?

SIEVERS: Yes.

Dr. Plötner was working together with Professor Schilling. This refers to a communication from Himmler dated 23 January, according to which Schilling's reports were to be passed on to Dr. May. These reports actually were not passed on, because Schilling refused to collaborate.

MAJOR JONES: Now turn to the entry for 25 February.

THE PRESIDENT: Is it a separate document, or is it in this book?

MAJOR JONES: It is in the document book, My Lord, Page 29 of the document book, Document 3546-PS.

[Turning to the witness.] On 25 February you make an entry regarding:

"The order of the RFSS about his work in Dachau in cooperation with Rascher was made known.

"22 March, 1830 to 2100 hours, SS Hauptsturmführer Dr. Rascher . . . preparations for the freezing experiments for the winter half-year 1944 to 1945."

You were at Dachau with Rascher on that date, were you not?

SIEVERS: These are experiments which, as I already testified before the Commission, Himmler wanted to have carried through on account of casualties from cold in the East. These experiments, however, could not be carried through at Dachau. This was reported to Himmler, and he ordered that they were to be carried through during the following winter. But they were never carried through, because Rascher was already arrested in April.

MAJOR JONES: For whom were you carrying through these experiments? Was it for the Army?

SIEVERS: These experiments were to be carried through together with the Reich Physician of the SS, Grawitz.

MAJOR JONES: He was the SS chief surgeon, was he not—Grawitz?

SIEVERS: Yes.

MAJOR JONES: So that these experiments were for the benefit of the Waffen-SS, were they?

SIEVERS: Grawitz personally refused to carry through these experiments and due to pending discussions they were not carried through in the winter of 1943-44, as Himmler had wished. Grawitz held the view that if these experiments were to be carried through, Herr Rascher should go to the front and work in the hospitals there.

MAJOR JONES: You have not answered my question, Witness. For whom were these experiments being carried out? Was it for the Waffen-SS?

SIEVERS: The order for the execution of these experiments was never transmitted. The arrangements were made between the Reich Physician of the SS and the Wehrmacht, but I do not know the particulars.

MAJOR JONES: If you please . . . if you would look at the next entry: "14 April, station Rascher; situation of work; further work; orders for provisional carrying on; Hauptsturmführer Plötner introduced."

Now, that was the time when Rascher was arrested, was it not?

SIEVERS: Yes, after Rascher had been arrested.

MAJOR JONES: And Hauptsturmführer Plötner succeeded Rascher, did he not?

SIEVERS: Yes.

MAJOR JONES: And the experiments continued in Dachau and elsewhere? The removal of Rascher made no difference?

SIEVERS: These experiments were completely different from those carried out by Rascher.

MAJOR JONES: You had attended some of the Rascher experiments, had you not?

SIEVERS: I was at Dachau several times, yes.

MAJOR JONES: And you were there with Himmler on several occasions when Rascher was carrying out his experiments, were you not?

SIEVERS: No, I never went to see Rascher at Dachau with Himmler.

MAJOR JONES: I want you to look at the Document Number 2428-PS, which will be GB-582, which is an affidavit of Dr. Pacholegg, of whom you spoke yesterday.

Your Lordship will find it at Page 20 of the document book, Page 25 of the English document book, Page 32 of the German document book.

[Turning to the witness.] You will see this question and answer put to Pacholegg after he had described the experiments of the throwing of victims into cold water and of the experiments on prostitutes to recover... to restore the warmth of these people:

"Question: Who was present at such an experiment?

"Answer: Heinrich Himmler and his staff generally witnessed these important experiments here at Dachau, or any new experiment. Standartenführer Sievers was always present with Himmler."

SIEVERS: That is not true.

MAJOR JONES: These experiments were hideous experiments, weren't they, Witness?

SIEVERS: I have just said that I was not present at those experiments when Himmler was there.

MAJOR JONES: Were you ever present when Himmler was not there?

SIEVERS: I saw two experiments; one I already mentioned yesterday, an experiment which I saw in part when Professor Hirt

was present; the other was an experiment in the low-pressure chamber.

MAJOR JONES: I want you to turn to Page 30 of the German document book, Page 22 of the English document book, so that your memory may be refreshed as to what sort of suffering these victims had to suffer under these so-called low-pressure experiments.

[Turning to the President.] It is in the last answer on Page 22 of the English document book, My Lord.

Pacholegg states there:

> "I have personally seen, through the observation window of the chamber, when a prisoner inside would stand a vacuum until his lungs ruptured. Some experiments gave men such pressure in their heads that they would go mad and pull out their hair in an effort to relieve the pressure. They would tear their heads and faces with their fingers and nails in an attempt to maim themselves in their madness. They would beat the walls with their hands and head and scream in an effort to relieve pressure on their eardrums. These cases of extremes of vacuums generally ended in the death of the subject. An extreme experiment was so certain to result in death that in many instances the chamber was used for routine execution purposes rather than as an experiment. I have known Rascher's experiments to subject a prisoner to vacuum conditions or extreme pressure conditions, or combinations of both, for as long as 30 minutes. The experiments were generally classified into two groups, one known as the living experiments, and the other simply as the 'X' experiment, which was a way of saying execution experiment."

Those were the sorts of experiments that were being carried on by Rascher for the Luftwaffe, weren't they?

SIEVERS: Those are low-pressure experiments, and I hear of the method of carrying them through here for the first time. The experiments which I witnessed . . .

MAJOR JONES: Just answer my question. Those experiments of that type were being carried out by the Luftwaffe . . . for the Luftwaffe, weren't they?

SIEVERS: Yes.

MAJOR JONES: What was the participation of Göring in these experiments?

SIEVERS: That is unknown to me, because the experiments at Dachau started in the year 1941 and I only learned of them after they had already begun. Connection with the Luftwaffe was established through the medical inspection offices of the Luftwaffe.

To what extent Göring was informed of these matters, I do not know.

MAJOR JONES: Through whom was the connection with the Navy maintained in connection with these scientific experiments?

SIEVERS: That I do not know.

MAJOR JONES: And the Army?

SIEVERS: That I do not know either.

MAJOR JONES: You see, you were the director of this Institute of Scientific Research for Military Purposes. You must have had liaison with each of the arms of the services, didn't you?

SIEVERS: The channels with regard to these Luftwaffe matters went via Obergruppenführer Wolff to General Milch.

MAJOR JONES: The Luftwaffe surgeon working on these Rascher experiments was Weltz, wasn't he? W-e-l-t-z, Oberfeldarzt of the Luftwaffe? That is so, isn't it?

SIEVERS: That may be. Several gentlemen were mentioned whom I did not know. Official letters were also written by others on behalf of Rascher. But without data I can no longer recall names. I gave evidence on these matters already last year.

MAJOR JONES: Does the name of Dr. Holzlöhner convey anything to you? He signed the report on the Schilling experiments.

SIEVERS: Yes.

MAJOR JONES: He was professor of physiology of the Medical School at the University of Kiel, wasn't he?

SIEVERS: Yes. I mentioned before the Commission that Professor Holzlöhner worked together with Dr. Rascher on experiments in Dachau.

MAJOR JONES: Was he the representative of the Navy in these experiments?

SIEVERS: No, he was an Air Force surgeon.

MAJOR JONES: Do you remember the experiments that were carried out for making sea water drinkable?

SIEVERS: Yes, I have heard of them.

MAJOR JONES: They took place in—they started in May of 1944, didn't they?

SIEVERS: Yes, that may be; in May.

MAJOR JONES: And you remember that you attended a conference on 20 May 1944 in the Air Ministry, to which members of the Navy and the Luftwaffe were invited; you remember that occasion?

SIEVERS: I do not remember any conference in the Air Ministry.

MAJOR JONES: Do you remember a conference anywhere else where you had a discussion on these experiments to make sea water drinkable?

SIEVERS: Yes. It was a conference with Dr. Grawitz, Reichsarzt SS. In this connection, I must explain that after the arrest of Rascher, his successor, Dr. Plötner, refused to carry through experiments on human beings. Only with the arrest of Rascher did the cruel way in which he experimented, and the manner in which he exceeded his orders by far, come to light. Himmler said . . .

MAJOR JONES: Well—just a moment. I will test you on that in a moment, but I just want you to try to apply your mind to these experiments for making sea water drinkable. Do you remember that there was a conference in which representatives of the Air Force and of the Navy attended? That is all I want you to deal with at the moment. You can give your explanation later.

SIEVERS: I have already said that I do recall a conference with Dr. Grawitz; and later a conference at Dachau with gentlemen of the Luftwaffe did take place. Whether gentlemen of the Navy were present, I do not recall.

MAJOR JONES: But I want you to try to remember, because it is important, you see. These were experiments on sea water. One would assume that the Navy would be interested. They were interested, and they sent a representative, didn't they?

SIEVERS: I do not think that a representative of the Navy was present.

MAJOR JONES: Do you know Dr. Laurenz, connected with U-boats at Kiel; L-a-u-r-e-n-z?

SIEVERS: No, I do not know him.

MAJOR JONES: Was it decided, in connection with these sea water experiments, to use Gypsies for the purpose of experiments?

SIEVERS: In this connection, I must continue the explanation which I started to give a little while ago, because this is a very decisive point. Dr. Plötner refused to continue the experiments on human beings, and Himmler did not demand them of him. Consequently, Grawitz received the order to devote himself to these matters. It is clear, therefore, that each experiment on human beings depended upon the willingness of the physician. Grawitz said that the Luftwaffe, that is, a professor from Vienna, had requested that camp inmates should be made available, and it is possible that Gypsies were mentioned in connection with the experiments to make sea water drinkable. I know nothing about

the details of the experiments. It was ordered at that time that the chemical and physiological experiments be carried through, and for this purpose the institute of Dr. May had to make two rooms available for a period of 3 weeks, and in these rooms the Luftwaffe physicians worked. Otherwise, these experiments . . .

MAJOR JONES: You had a staff working in Dachau on these experiments consisting of a supervisor, three medical chemists, one female assistant, and three noncommissioned officers, didn't you, in connection with these sea water experiments for Grawitz?

SIEVERS: Yes, that may be. That was under the supervision of Grawitz and his directives; how these directives were carried out, I did not know. We just confiscated the rooms; everything else was arranged by Grawitz. I do not know who worked there, or whether personnel of the SS worked there with the gentlemen of the Luftwaffe from Vienna.

MAJOR JONES: Why was this staff working in Dachau? Why was Dachau chosen as the place for the scientific experiments for making sea water drinkable? It was because you had the human guinea pigs there, wasn't it?

SIEVERS: I have already said that the Luftwaffe contacted Himmler for the purpose of obtaining camp inmates for these experiments; consequently, these experiments were arranged by Grawitz to take place in Dachau.

MAJOR JONES: I want you now to go back to your diary, Page 30 of the British document book, My Lord. You will see an entry for 14 April, "Political department about escape of Pacholegg." This prisoner Pacholegg escaped, didn't he?

SIEVERS: Yes, at any rate he had disappeared.

MAJOR JONES: Why did you go to the political department about it?

SIEVERS: Because I had been in Vorarlberg together with Rascher and Pacholegg, and I was accused of aiding Pacholegg to escape. All the circumstances of the arrest at the time when the Rascher affair was suddenly uncovered were at issue.

MAJOR JONES: You must have been extremely anxious when Pacholegg escaped; he knew a lot of the facts about your work, didn't he? You must have been most anxious to secure his recapture.

SIEVERS: I was mainly anxious about myself, for it is not hard to imagine what would have happened to me, since Pacholegg knew much—if it had been proved that I had favored his escape, as was being maintained.

MAJOR JONES: If you look at the entry for 23 May, you will see that you had a conference with the Reichsarzt SS Grawitz,

Poppendiek, and Plötner. Then you had "Division as to the work of Dr. Schilling." Then, in the afternoon, you had a 2-hour conference with Plötner. That was about these experiments to make sea water drinkable, wasn't it?

SIEVERS: No, this concerned Plötner's desire to discontinue his work with Schilling. Plötner complained bitterly about the type of work carried on by Schilling and said that he could not longer follow him. Plötner had been ordered there as a Waffen-SS physician.

MAJOR JONES: You yourself must have been feeling pangs of conscience at this time about the use of inmates because your military situation was rather delicate, wasn't it?

SIEVERS: I did not have a conflict of conscience at that late date only, but I felt pangs of conscience already much earlier. In view of the documents which are being submitted now and the accusations which are raised against me personally in that connection, I am forced to make a personal confession, a fundamental statement, and I should like to ask the Tribunal for permission to do so now.

THE PRESIDENT: The Tribunal thinks that you may say anything you wish in that regard.

MAJOR JONES: I would like to say, My Lord, that I have a number of other matters to put to this witness. If he cares...

THE PRESIDENT: You can put it to him first.

MAJOR JONES: If he cares to reserve his statement to the end, he can do so, but it might be convenient to my course, if he makes his confession now. I am at the disposal of the Court for this matter.

THE PRESIDENT: Let him make it now, then.

MAJOR JONES: If your Lordship pleases. Then will you make your confession to the Tribunal?

SIEVERS: Before the Commission on 27 June I had to make factual statements in direct answer to the questions put to me, and I was repeatedly asked to be brief. I therefore had to limit myself to a statement of the relevant facts and to disregard my own person and my personal attitude to these questions. I note that in consequence my credibility has been doubted, and it has been said that I personally participated in these incriminating experiments and did not wish to tell the truth. In view of this, I must, in my own defense, say the following:

I entered the Party as well as the SS as a leading member of a secret organization of the resistance movement and on its orders.

Indeed, this position in the Ahnenerbe afforded us special opportunities of working illegally against the Nazi system . . .

MAJOR JONES: Witness, when you say "resistance movement," I did not quite understand you. What is the "resistance movement" that you were leading?

SIEVERS: The secret organization led by Dr. Hielscher, who in connection with the 20th of July was arrested and kept imprisoned by the Gestapo for a long time. I repeatedly protested against the experiments, with the result that finally Himmler issued an order, also included in these documents, that resistance against these experiments would be regarded as high treason, and would therefore be punishable by death. Among other things, he told me that no one would ask me to carry out the experiments personally, and that he himself would have the full responsibility for them. Besides—as I myself read later—he said that such experiments on human beings had taken place repeatedly as part of medical research and were necessary, as was proved by the famous experiments on human beings carried out in 1900 by Dieth, and later by Goldberger, in America. Nevertheless my conflict of conscience . . .

MAJOR JONES: If Your Lordship pleases, I do not know whether the Tribunal wants to hear more of this material. It seems to me to be more an avoidance than a confession, and I have numerous matters that I desire to put to this witness.

SIEVERS: Well, I am just going to make a confession.

THE PRESIDENT: Mr. Elwyn Jones, the Tribunal thinks you had better go on with your cross-examination. If the witness wants to add something at the end he may do so.

MAJOR JONES: Now, just look back again at your diary. On 27 June you had a conference with SS Stabsführer Dr. Brandt and SS Hauptsturmführer Berg on the "creating of a scientific research station in a concentration camp. Information about conference on 15 June 1944 with SS Obergruppenführer Pohl." That was 27 June 1944, you know. On 25 July, you had a conference with SS Stabsführer Maurer, Oranienburg, about the "use of inmates for scientific purposes." That was when you were leading the resistance movement. On 26 July:

> "SS Hauptsturmführer Dr. Fischer by phone. Order in accordance with conference with SS Stabsführer Maurer, dated 25 July 1944, to visit quickly all concentration camps in order to make the final selection of the persons."

In October—on 21 October you were having another conference.

> "Proceeding of research of SS Sturmbannführer Professor Dr. Hirt. Renewed release of Staff Surgeon Dr. Wimmer for

duty and making preparations for the assignment of the chemist, SS Obersturmführer Martinek . . ."

On 23 October, you were having a conference with Poppendiek. On that day you record in your diary: "Taking over of biological research by SS Hauptsturmführer Dr. Plötner in Dachau."

Witness, do you remember your experiments on the quickness of coagulation of blood?

SIEVERS: No.

MAJOR JONES: Did you take part in any such experiments?

SIEVERS: I never participated in these experiments, because I am not a research man. But I remember this work very well. Dr. Plötner, as I said, refused to carry out experiments on human beings. The means of quickening the coagulation of blood . . .

MAJOR JONES: I am sorry to interrupt you, but I would like you to say what you personally knew about these experiments. What was the form of them, for instance?

SIEVERS: Experiments for quickening the coagulation of blood were conducted in the University Clinic of Innsbruck by Professor Breitner, and in the University Clinic of Vienna by Professor Denk.

MAJOR JONES: What happened was that bullets were fired into prisoners, into concentration camp detainees. That was the form of the experiments, wasn't it?

SIEVERS: This experiment was carried out by Rascher, not by Dr. Plötner, and it came to light only after Rascher's arrest.

MAJOR JONES: I am not concerned with who carried them out. You knew the form they took, and that was the form that bullets were fired into detainees of concentration camps and then efforts were made to stop the flow of blood, that was the form of the experiments, isn't that true?

SIEVERS: That only came to light after Rascher's arrest. Before that, he maintained that these experiments among others were carried out at the hospital in Schwabing.

MAJOR JONES: Just look at Document Number 065, Page 8 of the English document book. That will become GB-583, and it is an affidavit of Oswald Pohl, the head of WVHA (Economic and Administrative Main Office), and I want you to look at Paragraph 4, Page 11 of the German document book, Paragraph 4, in which he gives some testimony about you. I only want to read some of that in Paragraph 4.

"Sievers came to find out from me about the possibilities for the manufacturing of medicine. I mentioned the Deutsche Heilmittel Limited in Prague, which belonged to the Deutsche

Werke, managed by Oberführer Baier of my staff. I recommended Sievers to go to him. The medicine was manufactured later in Schlachters (Black Forest). Sievers told me that the 'Ahnenerbe,' whose manager Sievers was, had developed in Dachau a medicine which quickly brought coagulation of blood. It was enormously important for our combat troops because it prevented profuse bleeding. It was the result of experiments in Dachau during which a prisoner was fired upon. A prisoner in Dachau, a specialist in this field, is said to have taken an important part in the discovery of this medicine."

Now, those facts are true, aren't they?

SIEVERS: Yes, but the account is quite incomplete. When this discussion took place, Rascher had already long ago been arrested, and it was known that he himself had carried out this experiment. Since it was Dr. Plötner who had perfected this medicine, I told Pohl about the experiments in detail and submitted to him the expert opinion of Professor Breitner and Professor Denk from Vienna. The picture presented in this document is completely misleading.

MAJOR JONES: Witness, Rascher is dead. It is convenient to cast all the blame on to him, isn't it?

SIEVERS: The point in this case is to clarify the facts, and I can only say what is true and what I know exactly.

MAJOR JONES: Did you have anything to do with the experiments into the cause of contagious jaundice?

SIEVERS: No, I do not know anything about them.

MAJOR JONES: I want you to look at Document Number 010, Page 4 of the English document book, My Lord, Exhibit GB-584. That is a letter, as you see, from Grawitz to Himmler. It is dated 1 June 1943 and headed "Top Secret. Subject: Investigation into the cause of contagious jaundice."

THE PRESIDENT: What is the signature?

MAJOR JONES: That is the signature of Grawitz, is it not, the Reich Physician of the SS and Police?

SIEVERS: Yes.

MAJOR JONES: "Reichsführer: The Führer's Commissioner General, SS Brigadeführer Professor Dr. Brandt . . ."—pausing there for a moment—he was the Reich Commissioner for Health and Sanitation, wasn't he?

SIEVERS: Yes.

MAJOR JONES:

"The Führer's Commissioner General called on me with the request that I should assist him by placing prisoners at his disposal for research work into the cause of contagious jaundice which he was furthering considerably.

"The work has been carried out up to now by a Stabsarzt Dr. Dohmen, within the framework of the Research Institute of the Army Medical Inspectorate, and with the participation of the Robert Koch Institute. It has up to now led to the result, in agreement with the findings of other German research workers, that contagious jaundice is not carried by bacteria but by a virus. In order to increase our knowledge, which is based up to now only on vaccination experiments from men to animals, the reverse way is now necessary, namely, the vaccination of the cultivated virus into humans. One must reckon on cases of death.

"The therapeutic and above all the prophylactic results are naturally largely dependent on this last experimental step. Eight prisoners condemned to death would be required, if possible of fairly young age, within the prisoners' hospital of Sachsenhausen concentration camp. I respectfully ask for a decision, Reichsführer, as to:

"1. Whether I may start the experiments in the prescribed form;

"2. Whether the experiments may be carried out in the Sachsenhausen prison hospital by Stabsarzt Dr. Dohmen himself.

"Although Herr Dohmen does not belong to the SS (he is an SA leader and a Party member), I would recommend this as an exception in the interests of the continuity of the series of experiments and thus of the accuracy of the results. The practical importance of the question raised for our own troops, especially in southern Russia, is shown by the fact that this illness has been very common in the past years, both amongst us in the Waffen-SS and Police and in the Army, so that companies have been reduced by 60 percent for periods of up to 6 weeks."

And then there follows some more comment about the illness, and that is signed by Grawitz. Grawitz was the vice president of the German Red Cross, wasn't he?

SIEVERS: Yes.

MAJOR JONES: I want to turn to the Document Number 011 on Page 5 of the English document book—Exhibit GB-585. That is the reply of Himmler to the letter of Grawitz. It is dated

16 June 1943. "Subject: Research into the cause of contagious jaundice," and Himmler says:

"I give permission for 8 criminals condemned to death in Auschwitz (8 Jews of the Polish resistance movement who have been condemned to death) to be used for the experiments.

"I agree to Dr. Dohmen carrying out these experiments at Sachsenhausen. Like you, I am of the opinion that a real combating of contagious jaundice would be of inestimable value."—And then it is signed by Himmler with a note at the bottom:

"SS Obergruppenführer Pohl, Berlin. Copy sent with a request that note be taken."

Those experiments into the cause of contagious jaundice were done for the Waffen-SS and for the Army, weren't they?

SIEVERS: I hear of these things for the first time today. I know nothing about them and I cannot see what connection I can have with them.

MAJOR JONES: If you please, I want you to deal next with your experiments into typhus vaccine. Perhaps you may be a little more familiar with the nature of those experiments. Have you any knowledge of those? Professor Haagen might give you a clue.

SIEVERS: Yes, Professor Haagen did carry out vaccinations against typhus at Natzweiler, at the request of the camp where this disease had broken out.

MAJOR JONES: Who delegated Haagen for this work?

SIEVERS: He was not delegated at all. He was the hygienist at the University of Strasbourg.

MAJOR JONES: But I asked you who delegated him for this work, and not what his qualifications were for it.

SIEVERS: As far as I recall, these experiments were carried through by Haagen on order of the Medical Inspectorate of the Wehrmacht and of the Luftwaffe.

MAJOR JONES: He was commissioned by Göring, wasn't he?

SIEVERS: I do not know who commissioned him on behalf of the Luftwaffe.

MAJOR JONES: Well, just look at your own letter on this subject, Document Number 008, the first document in the English document book, Exhibit GB-586. It is headed "Institute of Scientific Research for Military Purposes", dated 19 May 1944. That was after Rascher had been removed from the scene. It is to:

"SS Obergruppenführer and General of the Waffen-SS Pohl, Chief of the WVHA. Subject: Production of a new kind of typhus serum." "Dear Obergruppenführer: Following our application of 30 September 1943, you gave your authorization on 25 October 1943 for the carrying out of experiments with a view to producing a new kind of typhus serum and transferred 100 suitable prisoners to Natzweiler for this purpose. It has been possible to carry out the experiments very satisfactorily so far with the help of the chief of Department D III, SS Standartenführer Dr. Dolling, commissioned by you."

Then there follows a number of sentences dealing with the medical aspects and scientific aspects of it. Then a few lines down:

"I therefore request you to detail persons to Natzweiler again for the purpose of inoculation. In order to obtain results which are as accurate as possible and can also be utilized for statistical purposes, 200 persons should be placed at our disposal for inoculation this time; it is also again necessary that they be as far as possible in the same physical conditions as is encountered among members of the Armed Forces. If imperative reasons should demand that 200 persons should not be transferred to Natzweiler for the experiments, the experiments could be carried out in another concentration camp, although it would entail great difficulties. The overcoming of these difficulties would, if necessary, have to be accepted by the scientists employed—although the latter are at the same time very much tied down to the University of Strasbourg owing to their lecturing activities—as the results which will certainly be achieved are of the most far-reaching importance for maintaining the health of our soldiers. As I have informed you, the direction for carrying out the experiments is in the hands of the director of the Hygienic Institute of the Reich University of Strasbourg, Professor Dr. Haagen, Oberstabsarzt and consulting hygienist to an air fleet, who was commissioned with this task by the Reich Marshal as President of the Reich Research Council. In accordance with his instructions, Dr. Haagen has to report about his work to the chief of the Luftwaffe medical services; in doing this he has to mention with whose support the work is carried out; that is, first, the Reich Research Council and secondly, the SS. I request your decision which of the following is to be mentioned as the supporting authority of the SS; a) the Reichsführer SS; or, b) Economic and Administrative Main Office; or, c) the Institute of Scientific Research for Military Purposes of the Waffen-SS."

Are you still saying that Göring didn't commission Haagen?

SIEVERS: Yes, I still maintain that. It says here, "Reich Marshal, President of the Reich Research Council." That does not at all mean that Herr Göring had knowledge of all these commissions of which tens of thousands were given in his name and on his stationery. The various authorized persons and offices concerned were competent in this respect, and that is evident from this document which lists the chief of the Luftwaffe medical services.

MAJOR JONES: The Tribunal has this document before it, so I am not going to argue with you on it.

THE PRESIDENT: Who signed the letter?

MAJOR JONES: The letter is signed by you, isn't it?

SIEVERS: Yes.

MAJOR JONES: And you mentioned Göring specifically by name, not simply Reich Research Council. Now just look at the Document Number 009 which is further to that letter of yours. It will be GB-587. It is Page 3 of the document book. That deals with the question as to who is to have the honor of having taken the lead in these experiments. It is to the "Reichsführer SS, Personal Staff." Whose signature is at the bottom of that letter?

SIEVERS: The personal secretary of the Reichsführer, Dr. Brandt.

MAJOR JONES: It is dated 6 June 1944, subject:

"Production of a new kind of serum against typhus.

"Dear Comrade Sievers, Thanks very much for sending the copy of your letter of 19 May 1944 to SS Obergruppenführer Pohl. I have informed the Reichsführer SS, as the matter seemed to me to be sufficiently important. In answer to the question as to who is to be designated as the supporting authority of the SS, the Reichsführer SS said that both the SS Economic Administrative Main Office (WVHA) and the Institute of Scientific Research for Specific Military Purposes should be mentioned. In addition, there is no objection to saying straight out that the Reichsführer SS has also personally supported the experiments."

Now what was your connection with the experiments into sterilization? Witness, I will just remind you that they were of three kinds. There were the experiments with the juice of a plant Caladium Siguinum, experiments with X-ray sterilization, and Klauberg's experiments on sterilization without operation. I have no doubt you remember them?

SIEVERS: No, I do not remember them. I do not know them.

MAJOR JONES: Do you know who was carrying them out?

SIEVERS: No, I do not know.

MAJOR JONES: Look at the Document Number 035, which will be GB-588, Page 7 of Your Lordship's English document book. Page 8 of the German document book. That is a letter to the Reich Plenipotentiary for the Consolidation of German Folkdom, Reichsführer SS Himmler, Chief of Police, Berlin. That was another arm of the SS that was interested in these medical experiments, was it not? Did you hear my question?

SIEVERS: Yes. The address is completely wrong. It should just read: The Reich Commissioner for the Consolidation of German Folkdom.

MAJOR JONES: I asked you whether it was another branch of the SS that was involved in these medical experiments?

SIEVERS: No, it had nothing to do with it.

MAJOR JONES: I'll just read the letter in that case. It has the initials of Himmler on the top, has it not, "H. H." You are extremely familiar with them.

SIEVERS: Yes.

MAJOR JONES: The letter reads:

"I beg you to direct your attention to the following statements. I have asked Professor Höhn to hand this letter to you and have thus selected the direct path to you in order to avoid the slower official channels and to eliminate the possibility of an indiscretion, bearing in mind the enormous importance, under certain circumstances, of the idea submitted. Prompted by the thought that the enemy must not only be conquered but exterminated, I feel obliged to submit the following to you as the Reich Plenipotentiary for the Consolidation of German Folkdom. Dr. Madaus is publishing the results of his research into sterilization by medicaments (I enclose both studies). In reading this article, I was struck by the enormous importance of this medicament in the present struggle of our people. Should it be possible to produce as soon as possible as a result of this research, a medicament which, after a comparatively brief period, would cause an unnoticed sterilization in individuals, we would have at our disposal a new and very effective weapon. The thought alone that the 3 million Bolsheviks now in German captivity could be sterilized, so that they would be available for work but precluded from propagation, opens up the most far-reaching perspectives. Madaus discovered that the juice of the plant Caladium Seguinum, swallowed or injected, produces after a certain time, particularly in male animals, but also in females, a lasting sterility. The illustrations which

accompany the scientific work are convincing. Provided that the idea expressed by me meets with your approval, the following path could be followed: (1) Dr. Madaus should not publish any more studies of this kind (the enemy is listening in!); (2) Cultivation of the plant (easily raised in greenhouses!); (3) Immediate experiments on humans (criminals) in order to ascertain the dose and the duration of treatment; (4) The quickest possible discovery of the formula of the composition of the effective chemical agent in order; (5) To produce the same synthetically if possible. I myself, as a German physician and a retired Oberarzt of the reserve in the medical corps of the German Armed Forces, undertake to observe complete silence on the use to which the subject raised by me in this letter is to be put. Heil Hitler:" —signed—"Dr. Ad. Pokorny, specialist on skin and venereal diseases."

Do you know that subsequent to that, greenhouses were erected and these plants were cultivated?

SIEVERS: No, I do not know that. I only remember in this connection that this publication of Dr. Madaus, but without reference to this rather strange suggestion of Dr. Pokorny, was sent for comment to Dr. Von Wünzelburg, who was an authority on tropical plants, and who told us immediately that such a plant could not be raised here and was not even available.

MAJOR JONES: I appreciate the difficulties of growing these tropical plants in Germany, but an attempt was made to grow them, was it not?

SIEVERS: I do not know whether an attempt was made.

MAJOR JONES: Grawitz, the Reich Surgeon of the SS, was in charge of these sterilization experiments, was he not?

SIEVERS: I do not know that, either. It may be.

MAJOR JONES: Now, apart from these experiments, scientific murder, the "Ahnenerbe" was used for political purposes, was it not?

SIEVERS: Political purposes? What do you mean by that in this connection?

MAJOR JONES: Fifth column activity abroad, for instance. The penetration of the scientific thought of other countries as a method of political influence.

SIEVERS: No.

MAJOR JONES: Just look at the Document Number 1698-PS, will you? It is inserted before Page 20 of the English document

book. There is just one page of it. 1698-PS will be Exhibit GB-589. It is an annual report dated 17 November 1944.

"Das Ahnenerbe (The Heritage of the Ancestors), Germanic Scientific Mission, Outpost Flanders, SS-Obersturmführer (F) Dr. Augustin. Annual report.

"The work is aimed at an intellectual deepening and broadening especially in the intellectual circles of Flanders and the Walloon district. In following the Germanic line which the SS represents, 1. The liberal-humanistic educational front must be invaded by winning over occupants of intellectual key positions; 2. Combating the great German myths with the idea of the Great-Germanic Reich community; 3. To promote the revival of the consciousness of German culture and German folkdom with the exceedingly effective—though neutrally camouflaged—political propaganda agent of science, bearing in mind the arrogant French assumptions of culture and the Flemish inferiority complex."

Then in the next paragraph it says:

"Thereby those circles of intelligentsia can be reached which hitherto have not been affected by the official press and propaganda. In university, college, and scientific policies, in the promotion of students' interests and in the granting of scholarships, in the selection for college training and in the education and promotion of the talented, our work must make an effort. To control, influence, and bind the holders of intellectual key positions (for example college professors, associations of lawyers, tutors, students, artists), that is the mission . . ."

THE PRESIDENT: Well Mr. Elwyn Jones, are you submitting that this is a crime?

MAJOR JONES: Yes, My Lord, I am submitting that it is an essential part of the machinery of this last instrument. First of all the perversion of science, secondly of using that perversion to infiltrate other countries. But I won't press the matter at all.

Now, Witness, the "Ahnenerbe" was a component part of the SS, was it not?

SIEVERS: I gave detailed evidence on this matter before the Commission. The Germanic scientific mission was subordinate to the SS Main Office. Dr. Augustin was appointed as expert for this work which in itself was only a continuation of the activity of many previous decades. I cannot believe that this amounts to fifth column activity or misuse of science for political purposes.

MAJOR JONES: I was asking you generally as to the "Ahnenerbe"; that is, was it a department of the SS? Look at Document

488-PS, Page 19a of the English document book. That is Himmler's order with regard to the "Ahnenerbe." I only want to draw your attention to the first paragraph.

> "I, the undersigned Reichsführer SS Heinrich Himmler, hereby certify that the research and teaching society 'Das Ahnenerbe' . . . and the 'Ahnenerbestiftung' (Ancestral Research Institute) are parts of my personal staff and thus are departments of the SS."

The funds of the Institute for Scientific Research, they came from the Waffen-SS funds, did they not?

SIEVERS: I testified on both of these points before the Commission. I said that the "Ahnenerbe" became an office in the personal staff of the Reichsführer SS in 1942 and that its status as a registered association was not affected thereby. I said that the funds of the "Ahnenerbe" came from the Ahnenerbestiftung, from funds of the German Forschungsgemeinschaft (Research Society), from fees of members, from funds of the Reich and from contributions of industry. Waffen-SS and Wehrmacht funds were, as I stated before, put at the disposal of the Institute of Scientific Research for Specific Military Purposes only.

MAJOR JONES: The members of the "Ahnenerbe" that were carrying out these experiments were all SS men, were they not? I want you just to look at the nominal roll of the "Ahnenerbe." Document D-962 which is the last document I am putting to you. It will be GB-591. You see the names of Professor Dr. Walter Wust, SS Oberführer Dr. Hans Brandt? And you see as you go down the whole of that list, that with one exception they are all officers of the SS, are they not?

SIEVERS: Yes, but with the difference that it does not show for what purpose it is drawn up, because it merely lists the SS leaders in the "Ahnenerbe" with reference to their marital status and the number of their children. I have already said that approximately one-half of the colleagues belonged to the SS, the other half not at all.

MAJOR JONES: There are over 100 names there of professors and German doctors connected with your work. They were all with one exception members of the SS. Were they not?

SIEVERS: But they are not all scientists, the list also includes truck drivers. I have to go through the list before being able to answer the question.

MAJOR JONES: I don't want to go through the whole list, but they are all SS men, are they not, and they were all employed on the work of the "Ahnenerbe."

SIEVERS: No, indeed they were not. The list includes also honorary members who only had a research commission.

MAJOR JONES: I have no more questions, My Lord.

SIEVERS: May I now be allowed to complete my statement?

THE PRESIDENT: Perhaps we had better have the re-examination first.

HERR PELCKMANN: Witness, what was the purpose of the "Ahnenerbe" institute? Was its purpose medical research or any other research? Please be brief in your answer.

SIEVERS: Its purpose was to carry out research in the Arts and Sciences, as set down in the statute of the "Ahnenerbe."

HERR PELCKMANN: Is it correct that the "Ahnenerbe" had about 50 different research commissions?

SIEVERS: The "Ahnenerbe" had 50 different research branches. These were institutes. Beyond that it carried out more than 100 extensive research projects.

HERR PELCKMANN: Did the Institute of Scientific Research for Specific Military Purposes fall under the research projects and the various institutes which you have just mentioned?

SIEVERS: It was a separate group within the "Ahnenerbe." That may also be seen from the fact that it was financed . . .

HERR PELCKMANN: Please do not answer that now. I am now asking you only if it was one of the institutes which you mentioned. I shall put other questions and you will have further opportunity of speaking.

SIEVERS: No, it was not one of the institutes I just mentioned.

HERR PELCKMANN: But you heard that the Institute of Scientific Research for Specific Military Purposes carried out experiments; is that correct?

SIEVERS: Yes.

HERR PELCKMANN: How were the projects and the institutes of the "Ahnenerbe" financed?

SIEVERS: The Ahnenerbestiftung administered all the funds which it received, and made them available to the "Ahnenerbe."

HERR PELCKMANN: Where did the funds come from?

SIEVERS: From the means of the German Research Society, from membership dues, from funds of the Reich.

HERR PELCKMANN: What do you mean by membership dues? What members?

SIEVERS: The inscribed members. Every German could become a member of the "Ahnenerbe."

HERR PELCKMANN: Were they SS members?

SIEVERS: No, everybody could become a member. Membership neither of the Party nor of the SS was a condition.

HERR PELCKMANN: You said that the money came from membership dues. Where else did the money come from?

SIEVERS: From contributions of industry.

HERR PELCKMANN: And where did the funds for the so-called Institute of Scientific Research for Specific Military Purposes come from?

SIEVERS: Solely from Wehrmacht funds which had to be separately accounted for according to the regulations...

THE PRESIDENT: Dr. Pelckmann, I have got before me the Commission evidence about all this. This is all stated in the Commission evidence, is it not? I have it before me.

HERR PELCKMANN: Quite right, Your Lordship, but the Prosecution also raised the questions just now, and in such a way that the witness had no chance to give an exhaustive reply.

THE PRESIDENT: It is not necessary to argue the point. Don't you think that you can make your re-examination shorter, in view of the fact that it is all given before the Commission which the Tribunal has before it?

HERR PELCKMANN: Yes, My Lord.

[Turning to the witness.] What percentage of members, or rather of collaborators and of those who were charged with the research projects for the Ahnenerbe, belonged to the SS?

SIEVERS: About one-half.

HERR PELCKMANN: Were the rest Party members?

SIEVERS: That was not a condition.

HERR PELCKMANN: Then were there collaborators who were nonpolitical?

SIEVERS: There were even some who were rejected by the Party and by the State for political reasons.

HERR PELCKMANN: Was Professor Seibt, a Norwegian, one of the members who worked there?

SIEVERS: Yes, Professor Seibt received a research commission from the "Ahnenerbe," after I had effected his release from a concentration camp.

HERR PELCKMANN: I have before me the original of your diary, parts of which were quoted to you in your cross-examination. 330 pages of this diary deal with the time on which you were questioned. The extracts, the parts which were presented to you, number only three pages. In view of this comparison, can you say that the matters which were discussed here constitute only a very small fraction of the work carried on by the "Ahnenerbe"? Please be very brief.

SIEVERS: Yes, I can confirm that, and therefore I am bent upon making my statement in this connection. I did not preserve my notes for the purpose of concealing things which should be truthfully clarified in the general interests of all.

HERR PELCKMANN: Witness, if fragments of this diary are presented to you as they were presented to you in your cross-examination, are you in a position to give exhaustive and correct explanations without going into the context and into the whole diary?

SIEVERS: This is quite impossible because the size of the diary already shows the considerable scope of my main work, and the comparative insignificance of the parts discussed here. And considering the period of time over which these matters extend, it is simply impossible to reconstruct them out of their context and to make complete and truthful statements on them. In my previous interrogations I again and again pointed this out, and asked for my secret notes and data so that I could give comprehensive accounts. For I myself, in view of my political attitude, was eager to uncover the wrongs done, and to aid in punishing them. But my requests were always in vain and my written application of 20 December remained unanswered. Relevant evidence has thus been passed over.

HERR PELCKMANN: That is sufficient, Witness.

I should like to mention just one example of the completely wrong picture which can result if the witness is limited to fragments of his diary. This is the entry on Page 103, Friday, 14 April, 1300 hours. "Station Rascher: stage of work, future work, orders for provisional carrying on—Hauptsturmführer Dr. Plötner initiated." The sentences which follow are not included in the extract.

Now, Witness, would you read those sentences and comment on them? Does this entry show, as the Prosecution maintains, that Dr. Plötner continued Rascher's work?

SIEVERS: The entry shows clearly that Dr. Plötner did not continue Dr. Rascher's experiments on human beings. On the basis of these notes I could now develop a comprehensive picture, but the time at my disposal is too short.

HERR PELCKMANN: Please make your comments.

SIEVERS: In a dramatic way Dr. Plötner described . . .

THE PRESIDENT: We don't want drama, we want the entry.

HERR PELCKMANN: Unfortunately I cannot read it, My Lord, because there is only one copy of the document.

THE PRESIDENT: Has not the witness got the document before him? Why can't he read it then?

SIEVERS: Yes, I shall read it.

"Hauptsturmführer Dr. Plötner initiated. . . . Most important task: Polygal tests."—That was the coagulating agent.

HERR PELCKMANN: Please give your comments when you have read the entry.

SIEVERS:

"Order for carrying on of work Putzengruber. Police Sergeant Neff reports that production of Polygal at Schlachters is assured for 3 months. Feix reports on production experience and submits first results from Schlachters. In Schlachters the accounting system is to be set up by Gau economic adviser. Purchase of machines."

HERR PELCKMANN: That means then that Dr. Plötner was initiated . . .

SIEVERS: Initiated into all the administrative and economic matters connected with the manufacture of Polygal.

HERR PELCKMANN: Now you were going to describe what happened at that time.

SIEVERS: Yes. Dr. Rascher had begun the development of Polygal, but the medicament did not come up to expectations. Dr. Plötner, who . . .

THE PRESIDENT: The question that you put to him was: "Does not this entry show that Dr. Plötner did not continue the investigations of Dr. Rascher?" How does the entry show it? He did not tell us how the entry shows it.

HERR PELCKMANN: Your Lordship, I did not, as far as I remember, put the question in that way.

THE PRESIDENT: Dr. Pelckmann . . .

HERR PELCKMANN: I wanted to know something quite different from this witness. May I please clarify this point after the witness has read these remarks and his memory has been refreshed?

THE PRESIDENT: Dr. Pelckmann, in my recollection and in the recollection of the other members of the Tribunal the question

you put was: "Does not this entry in your diary show that Dr. Plötner did not carry on the work of Dr. Rascher?" That was the question which you put. And we want an answer to it and no other answer.

HERR PELCKMANN: Then I did not express myself correctly, Your Lordship.

[Turning to the witness.] I wanted to know if now, after reading this entry, your memory was refreshed as to the happenings at that time?

SIEVERS: Yes.

HERR PELCKMANN: Then please describe them.

SIEVERS: The activities of the institute...

THE PRESIDENT: Wait a minute. Dr. Pelckmann, in the first place you realize, or you should realize, that the object of re-examination is to make clear or to contradict anything which has been put in cross-examination, and that is the only purpose of re-examination. In the second place, the Tribunal does not assume from the fact that the witness has been cross-examined to show that certain brutal and illegal experiments were made by this institution, that the institution did nothing else, and we do not propose to sit here for a prolonged time to hear everything else that this institution did. The only object of your redirect examination should be to contradict the fact that illegal experiments were made, or to clear up any doubts which may arise upon those illegal experiments, not to show us that they did other things.

HERR PELCKMANN: Witness, were further inhuman experiments carried out after Rascher's arrest, as far as you know?

SIEVERS: No.

HERR PELCKMANN: No?

SIEVERS: No. Dr. Plötner, as I have already testified, expressly refused to carry them out.

HERR PELCKMANN: Did you, after that time, hear of any other inhuman experiments?

SIEVERS: No, not in connection with the Institute of Scientific Research for Specific Military Purposes, into which I had insight.

HERR PELCKMANN: You say that you had insight into the Institute of Scientific Research for Specific Military Purposes. What personalities of the SS had insight into these experiments?

SIEVERS: Only those who had been charged with these matters by Himmler personally, and there were very few...

HERR PELCKMANN: How many approximately? Five or ten more or less do not matter.

SIEVERS: At a high estimate, 10 to 20.

HERR PELCKMANN: Were these directives secret or strictly secret? Did they fall into the category "Secret" or "Top Secret"?

SIEVERS: Yes, they fell into these two top secret categories.

HERR PELCKMANN: Can you therefore from your own knowledge say whether you consider it possible that the mass of the SS men knew about these things?

SIEVERS: It is quite impossible that they knew or could have known about these things.

HERR PELCKMANN: Do you recall that Freiherr von Eberstein was quite indignant when he learned of Rascher's experiments and horrified that anything like that could happen? Do you have any personal recollection of that?

SIEVERS: Yes, because I had to report to him personally in this matter. He was extremely angry during this conversation and spoke about the things which he had heard in connection with the arrest of Rascher, and which shocked me, too, very deeply. In his excitement he began to accuse me and was then very astonished to hear that Himmler alone had been in closest personal connection with Rascher and that all instructions had come directly from Himmler.

HERR PELCKMANN: That is sufficient. Thank you.

THE PRESIDENT: Now, can you conclude your . . . the observation you want to make, in 5 minutes?

SIEVERS: Yes, not longer.

THE PRESIDENT: Very well, go on then.

SIEVERS: In the cross-examination I was accused of course of having had no personal misgivings whatsoever regarding these experiments on human beings. I must contradict this emphatically. My conflict of conscience was very great and it was not appeased by the assurances which, as I mentioned earlier, I had received from Himmler. I therefore spoke with the leader of our secret organization, and we came to the conclusion that further resistance would—in the first place—have cost me my head, since an open demonstration would have been the only choice left to us, and secondly, that the people affected by the experiments would not in any way have been protected or helped thereby. These experiments would have been carried through in one way or another in any event.

But wherever possible I did secretly what no other person would have done, or dared to do. I prevented, through silent sabotage, whatever could possibly be prevented. My repeated offers to elaborate on this point with the help of my secret data and records,

which go into several hundred pages, as Dr. Pelckmann has just shown, were in vain. Even now, time does not permit me to give a more comprehensive picture of the background of events and of the events themselves. I personally rejected these experiments and did not support them. I played a role similar to that of a syndic at a university, who must be at the disposal of all professors and heads of institutes in all financial, economic, and administrative affairs. Therefore, I repudiate doubts cast on my credibility and my personal attitude. The documents submitted show exactly what I said about these matters in my interrogations before the Commission, which Dr. Pelckmann again mentioned just now. If my credibility is doubted with regard to my alleged illegal activities, then the leader of the secret organization, Dr. Hielscher, who is now in Nuremberg, is at the Tribunal's disposal in this matter. Thank you.

THE PRESIDENT: The Tribunal will adjourn.

[A recess was taken.]

MAJOR JONES: Your Lordship, I have three brief documents to put in on the SS case. The first is the Document 4043-PS, which I hand in on behalf of the Polish Delegation; it will be GB-606. It sets out the names of the 846 Polish priests and monks of the Polish clergy murdered at Dachau Concentration Camp.

THE PRESIDENT: Is that a State report or what?

MAJOR JONES: It is an affidavit by a Polish priest, attaching the names of the priests to his statements; the names appeared in a Polish publication, a Polish newspaper.

I see that it is a statement by the undersigned Roman Catholic priest, giving the following statement on oath. I am wrong in saying that it is a statement on oath; but it does attach a list of the priests from a publication of the section "Press and Culture" which was published in the Catholic weekly *Polska Wierna*. If the Tribunal is uneasy about the document, I shan't press it. I am asked by the Polish Delegation to submit it.

If Your Lordship pleases, the Document Number 007, which will be GB-592, in place of the last document, that is an order from Himmler to the Higher SS and Police Chief for the Ukraine in Kiev, dated 7 September 1943. It reads:

> "Dear Prützmann, General of the Infantry Stapf has special orders with regard to the Donets area. Get in touch with him immediately. I order you to co-operate as much as you can. The aim to be achieved is that when areas in the Ukraine are evacuated, not a human being, not a single head

of cattle, not a hundredweight of cereals and not a railway line remain behind; that not a house remain standing; not a mine which will not be unworkable for years to come; not a well which is not poisoned. The enemy must really find completely burnt and destroyed land. Discuss these things with Stapf straight away and do your absolute best. Heil Hitler, Yours," signed, "Himmler."

There is a note attached to it: "SS Obergruppenführer Berger has received the copy with the request that the Reich Minister for the East be informed." There are copies to the chief of the Regular Police, chief of the Security Police and SD, SS Obergruppenführer Berger, chief of the partisan-combating units, copies sent with a request that they be noted.

Finally, the Document Number 022 refers to instructions of Himmler.

THE PRESIDENT: Who was the Reich Minister at the time?

MAJOR JONES: As I understand it, My Lord, it was Rosenberg.

Then, finally, there is a Document Number 022, which will be GB-593. That is an instruction of Himmler dated 10 July 1943, to the chief of units for combating partisans, the higher SS and Police chiefs in the Ukraine, higher SS and Police chiefs in Russia, central sector.

The first paragraph:

"The Führer has decided that the whole population has to be evacuated from partisan-ridden territories of the northern Ukraine and of the central Russian sector.

"2. The whole male population fit for work will be directed to the Reich Commissioner for the Allocation of Labor according to regulations which are yet to be laid down, but under the conditions of prisoners of war.

"3. The female population will be directed to the Reich Commissioner for the Allocation of Labor for work in the Reich.

"4. Part of the female population and all children who have no parents will be sent to our collecting points.

"5. The evacuated territories are to be taken over and run by the Higher SS and Police Leaders, as much as possible in accordance with an arrangement still to be made with the Reich Minister of Food and with the Minister for the Occupied Eastern Territories. They are to be planted partly with Kok-Sagys and as far as possible agricultural use is to be made of them. The camps for children are to be established on the edge of these territories in order that

the children may be available as labor for the cultivation of Kok-Sagys and for agriculture.

"Final proposals are to be submitted to me as soon as possible." Signed, "H. Himmler."

There are the names of Berger and Backe below.

HERR PELCKMANN: Your Lordship, may I put a formal...

THE PRESIDENT: Just one minute.... Yes, Dr. Pelckmann.

HERR PELCKMANN: May I put a formal question with regard to the proceedings? The witness is still in the court-room: Are these documents to be submitted to him?

THE PRESIDENT: The Tribunal has some questions to put to the witness.

HERR PELCKMANN: If these documents are not put to the witness, then I should like to object to their being used, for the reasons given before that the submission of evidence by the Prosecution is closed.

THE PRESIDENT: The Tribunal has already ruled that new documents may be put in in this way.

DR. LATERNSER (Counsel for the General Staff and the OKW): Mr. President, may I be permitted to put one question to this witness to clarify a name which he used?

[Turning to the witness.] Witness, you mentioned the Institute for Scientific Research for Specific Military Purposes. Is that the full name of the institute? Will you give the full name?

THE PRESIDENT: Will you repeat your answer.

SIEVERS: Institute for Scientific Research for Specific Military Purposes of the Waffen-SS and Police.

DR. LATERNSER: Thank you.

THE TRIBUNAL (Mr. Biddle): Witness, you said that the Luftwaffe contacted Himmler for getting inmates from the concentration camps. Who in the Luftwaffe made that contact?

SIEVERS: I did not say that the Luftwaffe contacted concentration camps on Himmler's orders.

THE TRIBUNAL (Mr. Biddle): Wait, Witness, wait, listen to the question. I didn't suggest that you said that. I said that you said that someone in the Luftwaffe had made a contact with Himmler in order to get inmates from the concentration camps. Did you say that?

SIEVERS: No, I didn't say that either. But Dr. Grawitz, the Reich Physician of the SS, informed me that the Luftwaffe—I do not know which department of it—had applied for the sea water

experiments to be carried out and had asked that detainees be made available for that purpose.

THE TRIBUNAL (Mr. Biddle): You mentioned the name of General Milch in your testimony. What connection, if any, did General Milch have with any of these experiments?

SIEVERS: Only with the high-altitude and the freezing experiments which were started in 1941 and carried out by medical officers of the Luftwaffe, that is, by Professor Holzlöhner, by Stabsarzt Dr. Rascher, by Stabsarzt Dr. Finke, and by a third gentleman of the Aeronautical Research Institute at Adlershof, whose name I have forgotten.

THE TRIBUNAL (Mr. Biddle): And what connection did General Milch have with these experiments? Did he make the arrangements for them?

SIEVERS: No, as far as I know the technical arrangements were made by the Medical Inspectorate of the Luftwaffe.

THE TRIBUNAL (Mr. Biddle): What connection did General Milch have with this matter? Did he contact Himmler?

SIEVERS: That is apparent from the exchange of letters between Field Marshal Milch and Obergruppenführer Wolff, which were shown to me here in previous interrogations.

THE TRIBUNAL (Mr. Biddle): You then have no other knowledge about General Milch except from the correspondence that has been submitted?

SIEVERS: No, I do not know more than that.

THE TRIBUNAL (Mr. Biddle): In how many camps besides Dachau were there experiment stations or stations for biological research?

SIEVERS: That I cannot say, because I only know of the experiments of Rascher and Hirt, and no others, that is, experiments which were conducted in the field of the Reich Physician SS. Of these nothing could be learned, because they too . . .

THE TRIBUNAL (Mr. Biddle): You don't know?

SIEVERS: No.

THE TRIBUNAL (Mr. Biddle): One last question. You said that after Dr. Rascher's arrest there were no more illegal experiments that were connected with the institute. Do you know of any others that were not connected with the institute?

SIEVERS: That is connected with the previous question. One did hear, for instance, of the work of Professor Schilling; but I never became acquainted with it in detail.

THE PRESIDENT: The witness can retire.

LT. COMDR. HARRIS: May it please the Tribunal, during the examination of the witness, Dr. ...

THE PRESIDENT: You are not wanting me to keep the witness, are you?

LT. COMDR. HARRIS: No, Sir. During the examination of the witness, Dr. Best, the Tribunal kindly agreed to permit the Prosecution to introduce another document, which at that time was not available, and with the permission of the Tribunal, at this time I should like to offer it. The document is 4051-PS and becomes USA-924. This document has been shown to the witness Best in the presence of the counsel for the Gestapo, Dr. Merkel, and the witness Best has identified it. The document shows not only that the witness Best had knowledge of the program of counter-terror carried on in Denmark, but that he himself decreed acts of counterterrorism to be taken, and that on one occasion he ordered the execution of a student.

During the examination of Dr. Best, the Tribunal will recall a series of documents, Exhibits USA-911 to 915 inclusive, which were offered to show that the Gestapo murdered a French general. At that time we had only the photostatic copies of these documents, and I told the Tribunal that we would try to obtain the originals. We now have the originals in our possession, and they are being substituted for the photostatic copies.

I also asked the witness Best at that time if he knew that in connection—that at about the time that this alleged murder was supposed to have taken place, that a French general, General Mesny, was killed, and he said he did not know that. The French Prosecution has given us the documentary proof that General Mesny was killed at that time under circumstances which prove conclusively that this murder was accomplished in conformity with the plans which have heretofore been shown, and to that end I now offer as document next in order 4069-PS, which becomes USA-925. This document is certified by the Delegation of the Ministry of Justice of France.

I would ask the Tribunal to turn to Page 2, which is a letter from the International Red Cross Committee, Geneva, dated 5 April 1945, to Madame Mesny. I wish to emphasize the fact that this document is dated long before the present time and was written at a time when the other documents which the Tribunal has the benefit of, were, of course, entirely unknown.

This letter states that Monsieur Denzler, attaché at the Swiss Legation in Berlin, had sent certain information concerning General Mesny, and I should just like to respectfully invite your attention

to the second paragraph of his report, where he states that the Generals Flavigny, de Boisse, and Buisson had been transferred from Oflag IV B in Königstein to Oflag IV C in Colditz.

"The Generals Mesny and Vauthier have also left Königstein in a private car for Colditz. According to a communication from Commander Prawitt, General Mesny was shot near Dresden while trying to escape."

That was the report which the International Red Cross sent to Madame Mesny.

But I particularly desire to invite the attention of the Tribunal to the second document, which is dated 29 April 1945, and which was written by General Buisson to the Minister of War concerning the case of General Mesny. General Buisson states in this letter as follows:

"On 18 January 1945..." and parenthetically I refresh the recollection of the Tribunal that the last document which we offered was dated 12 January 1945 showing that at that time all plans for this murder had been completed. To continue with the document:

"... the following six officers, all generals, from the camp of Königstein, Oflag IV B, were picked out and told to leave the camp on 19 January in the morning, for an unknown destination. First car, Generals Daine and de Boisse..."

Now, parenthetically again, if the Tribunal will recall, General de Boisse was the general whom it was first intended to murder, as shown by the document, and if you remember, it was decided that General de Boisse would not be killed because his name had been discussed too often over the telephone, and therefore another general was to be substituted for him. So you see General de Boisse was in the first car.

"Second car, Generals Flavigny and Buisson. Third car, Generals Mesny and Vauthier. On 19 January, when the first car left at the appointed time, the other two did not, as both their order of departure and the times were changed. Second car, 7 a.m., General Mesny alone, for, according to information given to General Buisson through the German interpreter Rosenberg, an order had arrived from the High Command of the Armed Forces during the night, canceling General Vauthier's departure. Third car... Generals Flavigny and Buisson. The orders for the journey were draconian, destination unknown; it was strictly forbidden to make any stop on the way; the door handles were taken off the cars; there was a German officer in each car with an automatic pistol on his knees and his finger on the trigger.

"Upon our arrival in Colditz, (Oflag IV C) the reprisal camp, toward noon on 19 January, we noticed the absence of General Mesny, who had not arrived; we thought he had been sent to another camp, although his luggage was in the truck with that of the four other generals. On 20 January, in the morning, Commander Prawitt, head of Oflag IV C, came into the rooms of the French generals and made the following announcement: 'I inform you officially that General Mesny was shot yesterday in Dresden while trying to escape. He was buried in Dresden with military honors by a detachment of the Wehrmacht.' "

And then, if it please the Tribunal, General Buisson goes on with this comment, and it should be remembered that when he wrote this letter, he, of course, had no knowledge of the plot as we know it today. He said:

"Two facts remain obscure in the sombre tragedy: 1. the transport of General Mesny alone (second car), the choice of General Vauthier; then the canceling of the order seemed very suspicious to us, given the attitude of the general, who was a volunteer for work in Germany, and whose transfer to a reprisal camp seemed inexplicable. 2. General Mesny, whose eldest son is in a camp for political deportees in Germany, said to me several times during the course of our conversations, 'If up to 1944 I always tried to prepare my escape, I gave up trying altogether afterward, even if I had every chance of succeeding. First of all, the end of the war is only a question of weeks; and moreover, especially, I should be much too afraid that my flight would cost my eldest son his life.' An hour before his departure from Königstein on 19 January, General Mesny repeated those words to me again."

THE PRESIDENT: Dr. Laternser.

SIR DAVID MAXWELL-FYFE: My Lord, I wonder if Your Lordship will allow me to mention a point before Dr. Laternser commences. My Lord, as a result of the general evidence given before the Commission and the announcement that a number of summarizing affidavits will be tendered by certain organizations, the Prosecution have secured 11 affidavits of general scope made by State ministers, local counsellors and officials, and a publisher of a newspaper, dealing with the same matter as the summarized affidavits which the Defense are about to submit. They could, of course, be put in cross-examination to the witnesses for the SA who would be called, but I suggest for the consideration of the Tribunal that at this stage of the Trial it would probably be

more convenient if they were simply offered after the counsel for the organization have dealt with their documents.

If that course commended itself of the Tribunal, I should give German copies to the Counsel for the Defense at once so that they have an opportunity of considering them. Otherwise, of course, I should reserve them to be put in cross-examination and preserve the element of surprise.

My Lord, I am in the hands of the Tribunal, but it seemed to me that that was the more convenient course than occupying more time in cross-examination at this stage when so many facts are known.

DR. LATERNSER: Mr. President, I did not understand the translation of Sir David's suggestion; may I have it repeated so that possibly the Defense Counsel can explain their views in regard to it.

THE PRESIDENT: Will you put it again?

SIR DAVID MAXWELL-FYFE: My Lord, I have 11 affidavits which were taken from various gentlemen, including ex-State ministers of the Social Democratic Party and other non-Nazi parties, local officials, and one publisher of a newspaper. They are designed to deal generally with the matters which have been given before the Commission and which are going to be dealt with, as I understand, in the summarized affidavits, the affidavits summarizing the large quantity of affidavits.

I suggested for the consideration of the Tribunal that, instead of taking up time in putting the contents of these affidavits to the witnesses for the SA, witness Jüttner and others, who would probably deal with most of the points, I should offer them after the Defense Counsel have offered their documents, and in order that the Defense Counsel would not be prejudiced in any way, I suggest that, if that course were adopted, I should give them copies of these affidavits in German at once so that they would have an opportunity of seeing the contents.

The object is to keep the documents together and also, I hope, to save time at this stage of the Trial in cross-examination.

I hope, My Lord, that is clear.

THE PRESIDENT: That seems to the Tribunal to be a convenient course and to give the German Defense Counsel a longer period in which to study the affidavits.

SIR DAVID MAXWELL-FYFE: I will do that, My Lord.

THE PRESIDENT: Herr Dr. Laternser.

DR. LATERNSER: With the permission of the Tribunal, I shall call as my first witness, Field Marshal Von Brauchitsch.

COLONEL TELFORD TAYLOR (Associate Trial Counsel for the United States): My Lord, might I make a brief observation before the witness comes in?

THE PRESIDENT: Yes—Marshal, keep the witness out for a moment.

COLONEL TAYLOR: My Lord, I wanted to make a very brief observation concerning the scope of the testimony of the witness Von Brauchitsch.

The other two witnesses that Dr. Laternser is calling—Field Marshals Von Manstein and Rundstedt—were called in the first instance by Dr. Laternser and have testified before the Commissioner on practically every question relating to the General Staff and High Command. That will appear from the summaries of their evidence which, I think, are in the hands of the Court.

The case of the witness Von Brauchitsch is somewhat different. The witness Von Brauchitsch signed two affidavits which the Prosecution offered and which are in the record before the Tribunal as Exhibits USA-532 and 535. Those affidavits relate exclusively to the question of the composition and organization of the General Staff and High Command group.

Before the Commissioner, the witness Von Brauchitsch was cross-examined by Dr. Laternser only within the scope of those affidavits. No other matters were touched upon before the Commissioner. I now understand that Dr. Laternser proposes to examine the witness Von Brauchitsch before the Tribunal on a great variety, or on at least several other matters other than those covered in the affidavits.

The Prosecution merely wishes to point out that to the extent that the witness Von Brauchitsch covers other matters other than those in the affidavits, he becomes a witness for the Defense and the Prosecution may possibly, though not necessarily, have to cross-examine him on those distinct matters.

We also wish to respectfully suggest that, unless the witness Von Brauchitsch is going to talk about matters other than those that Manstein and Rundstedt have covered at length, it would be entirely fair and expeditious to confine the testimony of Von Brauchitsch to the matters of the affidavits, unless, as I say, it is proposed that Von Brauchitsch discuss matters which Rundstedt and Manstein are not going to cover.

THE PRESIDENT: Dr. Laternser, the Tribunal wishes you to go on and examine Field Marshal Von Brauchitsch. They hope that insofar as his evidence covers the same ground as the other two witnesses that you are proposing to call, you will be as short as possible.

DR. LATERNSER: I now call Field Marshal Von Brauchitsch as my first witness.

[The witness Von Brauchitsch took the stand.]

THE PRESIDENT: Will you state your full name, please? Can you hear now?

WALTER VON BRAUCHITSCH: Walter von Brauchitsch.

THE PRESIDENT: Will you repeat this oath after me: I swear by God—the Almighty and Omniscient—that I will speak the pure truth—and will withhold and add nothing.

[The witness repeated the oath.]

THE PRESIDENT: You may sit down.

DR. LATERNSER: Field Marshal, what was the last position which you held?

VON BRAUCHITSCH: Commander-in-Chief of the German Army.

DR. LATERNSER: During what period were you Commander-in-Chief of the German Army?

VON BRAUCHITSCH: 1938 to 1941.

DR. LATERNSER: On 4 February 1938 you succeeded Generaloberst Von Fritsch as Commander-in-Chief of the German Army. When you took over this position, did Fritsch inform you of the intentions which Hitler made known in the conference on 5 November 1937?

VON BRAUCHITSCH: No.

DR. LATERNSER: Did, by any chance, Hitler himself inform you of these intentions?

VON BRAUCHITSCH: No.

DR. LATERNSER: Or did Generaloberst Beck, who was then Chief of the General Staff of the Army, inform you of them?

VON BRAUCHITSCH: No, he did not either.

DR. LATERNSER: In case such plans had existed, would it have been necessary to inform you of them on your taking over the post of Commander-in-Chief of the German Army?

VON BRAUCHITSCH: In my view, certainly.

DR. LATERNSER: When did you learn what was discussed at that conference of 5 November 1937?

VON BRAUCHITSCH: Only here in Nuremberg.

DR. LATERNSER: Were you, as Commander-in-Chief of the German Army, consulted by Hitler before the occupation of Austria?

VON BRAUCHITSCH: No.

DR. LATERNSER: Did a plan exist for military action against Austria?

VON BRAUCHITSCH: No; at least I do not know of one.

DR. LATERNSER: Did that action come as a surprise to you?

VON BRAUCHITSCH: It came as a complete surprise to me. I was not, as the witness Gisevius said, called away from the session of the court. I was not in Berlin at all, but away on official business. I heard of the orders which were given only after my return.

DR. LATERNSER: Did not doubts arise in your mind at that time?

VON BRAUCHITSCH: I was afraid of fraternal strife and I was also afraid that this action would result in further conflict.

DR. LATERNSER: Did not Papen meet you in the Reich Chancellery on 11 March 1938 and congratulate you after the order for the march into Austria had been withdrawn again in the course of that day?

VON BRAUCHITSCH: I heartily welcomed the withdrawal of the order to march in. I was in the Reich Chancellery, and it is quite possible that Papen congratulated me on that occasion.

DR. LATERNSER: Were you consulted on the political questions before the occupation of the Sudetenland?

VON BRAUCHITSCH: No, never.

DR. LATERNSER: Did a plan for military action exist in this case?

VON BRAUCHITSCH: For Austria?

DR. LATERNSER: No, for the occupation of the Sudetenland.

VON BRAUCHITSCH: No, no plan existed in this case either.

DR. LATERNSER: Did you not, before the end of the Sudeten occupation, request Field Marshal Keitel to use all his influence to insure that the demarcation lines agreed on should under no circumstances be overstepped?

VON BRAUCHITSCH: That is correct.

DR. LATERNSER: The witness Gisevius testified here that after May 1938 Generaloberst Beck no longer handled the affairs of the Chief of the General Staff. Is that correct?

VON BRAUCHITSCH: That is an error. Generaloberst Beck handled the affairs of the Chief of the General Staff in their entirety until 1 September 1938.

DR. LATERNSER: Generaloberst Beck had written a memorandum which has already been dealt with here, and which therefore I shall not again bring up in detail. In that memorandum he opposed the occupation of the Sudetenland, and warned against a war on two fronts. What did you do with that memorandum?

VON BRAUCHITSCH: I had very serious doubts about a policy supported by military measures. Generaloberst Beck had composed a memorandum in which he reached the conclusion, from a military point of view, that a war in the heart of Europe would lead to a world conflict. Since I believed these considerations to be absolutely fundamental, I took the opportunity of presenting them to the commanding generals, whom, for another reason—for the discussion of internal Army affairs—I had ordered to a conference in Berlin. I asked everyone present for his opinion, and we approved unanimously the ideas contained in the memorandum. This memorandum was then sent to Hitler. This resulted in a heated argument, in the course of which he told me, among other things, that—this was the essence of it—he alone knew quite well what he had to do.

DR. LATERNSER: When, approximately, was that?

VON BRAUCHITSCH: That was at the end of July, the second half of July 1938.

DR. LATERNSER: In what connection was Generaloberst Adam relieved of his command?

VON BRAUCHITSCH: A conference of officers of the General Staff with the Führer, who had convened it, had taken place in August. During that conference General Adam's chief of staff—General Adam was group commander in Wiesbaden at that time—had expressed ideas similar to those contained in the memorandum, and in doing so had cited the authority of his commanding officer. That was the first incident leading to his release which, however, did not take place until October 1938, after a personal report by General Adam. The issue concerned an inspection tour of the West Wall, during which General Adam had expressed his views.

DR. LATERNSER: What military preparations did you order before the occupation of Czechoslovakia?

VON BRAUCHITSCH: I issued no orders at all. Hitler had ordered at that time that the troops in the near-by Army districts be kept in an increased state of alert.

DR. LATERNSER: Did a military plan exist for the occupation of Czechoslovakia?

VON BRAUCHITSCH: A plan did not exist. Only Hitler's orders were executed.

DR. LATERNSER: Then things gradually came to a head. Did you, during 1939, warn Hitler against a war?

VON BRAUCHITSCH: Yes, on account of the instructions given in connection with the Polish problem, I had very grave fears that against Hitler's and the German nation's will we might drift into a war. For that reason I again spoke of this memorandum in July 1939 during a talk with Hitler alone. I also said that he would be staking all the gains gotten by peaceful means. Hitler would not allow any argument, as was his habit, and merely replied that it was a matter for the political leaders which had nothing to do with me.

DR. LATERNSER: Did you not, at that time, have a discussion with Lutze, who was then the Chief of Staff of the SA?

VON BRAUCHITSCH: I talked to the Chief of Staff of the SA, and mentioned to him the fears of which I have just spoken. Lutze shared my views. I had discussed these matters with him in the hope that he would find an occasion to express these views to Hitler.

DR. LATERNSER: Field Marshal, were you in touch with the Foreign Office during this period of tension?

VON BRAUCHITSCH: No, because the Foreign Office was not allowed to send any information to the High Command of the Army.

DR. LATERNSER: Were you in touch with other leading political organs?

VON BRAUCHITSCH: No.

DR. LATERNSER: The conference on 23 May 1939 is of particular importance. Did you, at that time, gain the impression that war had been decided upon?

VON BRAUCHITSCH: No. There are quite a number of circumstances and facts which gave me the clear impression that there was no intention of war. May I point out that since the autumn of 1938, negotiations with Poland had been in progress to clear up the pending questions. Hitler had spoken in the Reichstag about this problem. He had said that this was the only question which still required a solution. In previous speeches he had said that the rebuilding of the Wehrmacht was being carried out only to protect the homeland. At the end of December 1938, or during the first days of January 1939, the High Command of the Army received the following order from the High Command of the Wehrmacht: The Army will carry out the proposed and planned construction program by the year 1945. All preparations for any military action or any other operation were prohibited. At the meeting of 23 May 1939, Hitler said literally: "I should be an idiot if on

account of Poland I were to drift into a war, like those incapable people of 1914." He ordered that rearmament should continue within the allotted time, that is, up to the years 1942 and 1943, and that order was directly connected with the one which I had received at the beginning of the year. Finally, he ordered that commissions were to be appointed to investigate all the other problems which had been touched upon. For me, all these facts were the clearest proof that in the case of Poland, too, it was merely a policy supported by military measures.

DR. LATERNSER: Did you raise objections of any kind during that conference on 23 May, of which you have just spoken?

VON BRAUCHITSCH: It was not a conference. It was an address of the Führer to his subordinates. There was no discussion about it.

DR. LATERNSER: Field Marshal, I think you misunderstood me.

VON BRAUCHITSCH: No.

DR. LATERNSER: I was asking you whether during the conference of 23 May you voiced objections of any kind?

VON BRAUCHITSCH: Well, I gave my answer to that.

DR. LATERNSER: Was a plan of attack against Poland ever worked out before that time, before May 1939?

VON BRAUCHITSCH: No, never.

DR. LATERNSER: Did you, on 22 August 1939, still hope that war would be avoided?

VON BRAUCHITSCH: The reasons for that, which I have already mentioned, remained unchanged. An additional reason was that the trade agreement signed with the Soviet Union would, in my view, convince Poland that to settle differences by negotiations was the best way. Moreover, it was my opinion that the isolation of which Hitler had spoken would also result in Poland's readiness to negotiate. The decisive point was that Hitler expressly said the negotiations with Poland were continuing.

DR. LATERNSER: What was the purpose of that speech, that speech of 22 August, as you saw it?

VON BRAUCHITSCH: In my view, that conference was first of all the consequence of the objections which I had made to Hitler. Secondly it was, in my view, Hitler's intention to increase the confidence of the leaders under him in the policy which he was pursuing, and to convince them completely of the logic of his intentions.

THE PRESIDENT: We will adjourn.

[The Tribunal recessed until 1400 hours.]

Afternoon Session

[The witness Von Brauchitsch resumed the stand.]

THE MARSHAL: May it please the Tribunal, the Defendant Hess is absent.

DR. LATERNSER: Field Marshal, this morning we had reached the period of tension just before the outbreak of the war. On 25 August 1939 the first order for marching in was rescinded. During those days, did Hitler let you know that negotiations would continue?

VON BRAUCHITSCH: He personally gave me the order for the withdrawal of the order to march in, and on that occasion he told me that negotiations with Poland were still in progress.

DR. LATERNSER: In contrast to the previous occupations of foreign areas, all preparations before the Polish campaign had been drawn up for the actual event. Did this lead you to believe that actually there would be a war then?

VON BRAUCHITSCH: No, for the following reason: After the Sudeten crisis, Hitler had heard from the various military leaders that military preparations had not been taken seriously by them, for the preparations in their scope were not commensurate with the seriousness of the task at hand. Of course, it is self-evident that if in political negotiations one wishes to use the threat of military might, there must be the absolute impression of seriousness as far as the other party to the negotiations, as well as one's own people, is concerned.

For this very reason Hitler in the case of Poland emphatically demanded that the preparations be considered very seriously.

But there was a second point. On Hitler's order, a time schedule had been set up in which the various phases were set down exactly. Only on his express order could a new phase be started, and from this also I could see that he wanted to adjust the preparations to the political negotiations.

DR. LATERNSER: At the beginning of the Polish campaign did you know that an agreement with the Soviet Union had been reached, setting up a line of demarcation?

VON BRAUCHITSCH: No, I had no idea of that at all.

DR. LATERNSER: After the conclusion of the war you had made provision for military administration in Poland. Why was this not effected?

VON BRAUCHITSCH: The High Command of the Army had made preparations and issued directives to the effect that the appeasement of the occupied areas was to be brought about as soon

as possible. At the beginning of October, I learned about excesses against the Poles, carried out by personalities who were not under the jurisdiction of the Army. I reported these matters to the High Command of the Armed Forces and took the next occasion to see Hitler personally and report about them. I asked him to see to it that matters like these be prevented once and for all. Hitler did not take any notice of this report of mine.

Frank originally was to be civil commissioner with the military commander-in-chief of Poland. In the second half of October he was charged with the entire administration. The Army relinquished its authority.

DR. LATERNSER: After the campaign against Poland, did not tension arise between the High Command of the Army and Hitler, and if so, what were the reasons?

VON BRAUCHITSCH: There were constant conflicts with the leadership of the Party, and they arose from the most varied causes. It would take me too far afield to enumerate all of them, but I should like to stress just two points.

One of them concerned the chaplains which I wanted to have retained in the Army under all circumstances, and the second point applied to the influence which the leadership of the Party demanded in the settlement of complaints. The third point was the decree of Reichsführer SS Himmler concerning the problem of marriage and women, which matter I answered in the form of a decree given to the Army.

DR. LATERNSER: Now I should like to put a few questions relating to the time before the Western offensive. Following the Polish campaign, did the High Command of the Army prepare for an offensive against the Western Powers?

VON BRAUCHITSCH: In no way had an offensive been planned. On the basis of the order which I just mentioned previously all preparations had been prohibited, and therefore no special measures had been taken in advance for the defense. All directives issued after the Polish campaign to the troops which were being sent to the West were purely of a defensive nature.

DR. LATERNSER: Who, later on, made plans for attack?

VON BRAUCHITSCH: On 27 September 1939, Hitler announced his decision to attack in the West. He ordered the necessary preparations to be made, which would have to be concluded by 12 November.

DR. LATERNSER: What position did you and the High Command of the Army take with reference to this plan?

VON BRAUCHITSCH: England and France had declared war on Germany. Both powers had not taken advantage of Germany's moment of greatest weakness in September. Therefore, it was questionable to me whether they would start a winter offensive now, at a time when the Western Front was daily being strengthened. Beyond that, I personally was in great doubt whether these two powers seriously wanted to wage war. I believed that in view of the reception which Chamberlain had in London and Daladier in Paris, after the Munich Agreement, their people would not be inclined to wage a war.

I believed that the breaches of neutrality which had been committed by the Allies up until that time would not weigh so heavily in the eyes of the world. Since the year 1914 I fully appreciated the consequences of violating neutrality, and this had been seared into my memory. In my opinion, this would apply again in this case to the one that would be the first really to cross the border with strong ground forces. We had gone into the question very carefully, in the High Command of the Army, of whether the crossing of the border for reasons of ground operations would be necessary as the first step. We had reached the conclusion that this was not the case, but that, if it was necessary at all, we could do so in answer to an enemy move.

DR. LATERNSER: Did you call Hitler's attention to the fact that in the event of an offensive in the West, the countries of Holland, Belgium, and Luxembourg would be drawn into war?

VON BRAUCHITSCH: I took the very next opportunity at which I could talk with Hitler alone after 27 September 1939, to tell him my opinion. However, he was not open to any discussion and remained steadfast in his well-known opinion.

DR. LATERNSER: Did you try to prevent the Western offensive from being started?

VON BRAUCHITSCH: Before as well as afterwards, I was convinced that it would have to be possible to end this entire war once and for all politically. I considered it madness that Europe once more would have to tear herself to pieces instead of progressing by peacefully working at the common task.

The Wehrmacht, according to the principle *Si vis pacem para bellum,* was in line with this. German soldiers of every rank had been trained to defend and protect their homeland. They did not think about wars of conquest, or the expansion of German domination over other peoples.

It was quite clear to me that the entire question could be cleared up only by political means, if a sincere will to this end existed. But any political developments, of course, need time; and I was only

concerned with gaining time for these political negotiations, matters upon which I had no influence, however. Therefore, I asked on 5 November 1939 to be granted an audience with the Führer. As I could no longer put political reasons before him, I had to give purely military reasons, and as such I used the condition of the Army.

Hitler listened at first to my statements quietly. Then he flew into a rage so that any further conversation was impossible. So I left. On the evening of the same day, the order was issued to attack on 12 November, which order was rescinded on 7 November.

DR. LATERNSER: Did you not even use the bad weather as a pretext to gain time and to postpone matters?

VON BRAUCHITSCH: In view of the extremely difficult terrain, I pointed out the fact that if we were to march in at all, this would only be possible if we had an extended period of good weather. But above all the use of the Luftwaffe was dependent on a long period of good weather.

DR. LATERNSER: And after the address of Hitler to the generals on 23 November 1939, which has been discussed here quite frequently, you offered your resignation? How did that happen?

VON BRAUCHITSCH: In the evening of 23 November I was once more ordered to appear before the Führer. In a lengthy discussion with him alone, he once more raised all the accusations against the Army. In the course of this conversation I offered my resignation which he rejected by saying that I had to fulfill my duty and obligation just like every other soldier. Through these incidents a breach had occurred which was later closed but was never completely mended.

DR. LATERNSER: To what extent, in your capacity as Commander-in-Chief of the Army, did you participate in the decision to occupy Norway and Denmark?

VON BRAUCHITSCH: In no way at all.

DR. LATERNSER: Did you participate in its preparation and execution?

VON BRAUCHITSCH: No.

DR. LATERNSER: Then the campaign in the West started. At that time, what was your relationship with Hitler?

VON BRAUCHITSCH: As I have already mentioned before, it was difficult. In the course of the campaign in the West, there was a series of smaller and larger differences. I should like to cite but one. This concerned the stopping of the German Panzers before Dunkirk, a matter which brought about a serious conflict. The result was that the mass of the personnel of the British Expeditionary Force escaped to England across the Channel.

DR. LATERNSER: On the part of the High Command of the Army, after the conclusion of the campaign in the West, were measures for demobilization worked on, or were they suggested?

VON BRAUCHITSCH: At that time, two measures were taken. A commission for demobilization was established, and secondly a number of generals were asked whether they wished to remain in the Army after the conclusion of peace.

DR. LATERNSER: And what was your collaboration in the decision to intervene in Greece and Yugoslavia?

VON BRAUCHITSCH: I did not participate in any way in these decisions. When with the Chief of the General Staff, Generaloberst Halder, I was ordered by the Führer to appear before him, he received us with the words, "I have decided to destroy Yugoslavia." And then he stated the reasons for his decision. I believe they are well known here already.

DR. LATERNSER: At that time, was there a plan for any interference in Yugoslavia or Greece?

VON BRAUCHITSCH: No, neither a plan nor any preparation existed. We did not even have maps.

DR. LATERNSER: And where were you to get these divisions from? From all parts of Germany?

VON BRAUCHITSCH: The divisions had to be brought in from all parts of Germany and the occupied territories.

DR. LATERNSER: Is the assertion of Field Marshal Paulus true that the occupation of the Balkans was one of the prerequisites of the campaign against the Soviet Union?

VON BRAUCHITSCH: That is a mistake on the part of Field Marshal Paulus. The Yugoslavian issue was the direct consequence of the collapse there. Before that time, just somewhat previous, Yugoslavia had joined the Tripartite Pact and this question was the result of the British landing in Greece and the catastrophic position of the Italians in Albania.

DR. LATERNSER: Now, let us turn to the Eastern campaign. What was your attitude with reference to the Trade Agreement with the Soviet Union?

VON BRAUCHITSCH: The Trade Agreement with the Soviet Union was concluded in September 1939 and we had hailed it joyfully. In this step we saw the end of a period of mistrust, and hoped that, above and beyond that, Germany would be able to be a bridge across the heart of Europe.

DR. LATERNSER: Did any military leader suggest the thought of attacking the Soviet Union?

VON BRAUCHITSCH: No, never.

DR. LATERNSER: When did Hitler tell you for the very first time that the possibility of war with the Soviet Union would be considered?

VON BRAUCHITSCH: In August of 1940 he made a remark to me to the effect that he was worried by the thought that the attitude of Russia might change. Thereupon, I talked with the Chief of the General Staff and told him that we would have to collect the data required, for in this connection we had not done anything up to that time.

DR. LATERNSER: Were there any maps in existence?

VON BRAUCHITSCH: Neither maps nor anything else. In the month of September, Hitler ordered that the question of Russia would have to be investigated. In my opinion, no decision to put the plan into effect was in existence; in any event, it was not mentioned. All the work which was done was General Staff work, consisting of preparatory and precautionary measures which have to be taken in such a case everywhere.

DR. LATERNSER: Did the transfer of some of the divisions into the territory of the Government General, which you ordered after the conclusion of the Western campaign, have any connection with the start of the Eastern campaign, or what were the reasons for this transfer of divisions?

VON BRAUCHITSCH: The transfer of the divisions had already been started before. The reasons for it were quite different ones. The guarding of the Russian-German demarcation line in Poland was mainly carried out by the Zolldienst (Customs service). Border crossings had been ascertained in innumerable cases. The Zollgrenzschutz (Frontier Guard) was urgently needed at other places. The SS intended to take over the guarding of the frontier by the Zolldienst (Customs service) and for that reason they wanted to create new units. But I wanted to prevent that, and therefore Hitler was requested to have divisions transferred from the West to the East. Beyond that, we wanted to relieve France of the burden of the many divisions which were stationed there.

DR. LATERNSER: Did the High Command of the Army, in the conference of 3 February 1941, have any misgivings about a war with the Soviet Union?

[Turning to the Tribunal.] I refer to Document Number 872-PS, USA-134, My Lord.

VON BRAUCHITSCH: According to the statement made by Hitler in the case of Russia, we were concerned with the fact that if a war were to break out at all, it was to be a preventive war. In

the conference I limited myself to the purely military misgivings. General Halder and I reported on three points. One was the size of the Russian area which even today cannot be bridged by motor vehicles alone. The second point was the number of the population, and therewith the large number of picked reserves which were available, and the quite different level of education and enlightenment of the Russian population as compared with the years 1914-1918, matters which I could see for myself when I was a guest of the Red Army in the year 1931. And the third point was the high armament potential of Russia. According to our estimate, Russia at that time had at her command approximately 10,000 tanks. Hitler must have given some thought to these problems, for he answered immediately and refuted the first two points; namely, by saying that the domination of the Soviets was so much in disfavor among the Russian population, that the system would collapse. Everything would depend only on the decisiveness of the first successes. As far as the third point was concerned, the point of armament, he mentioned, on the bases of detailed figures that he had, as always, at his finger tips, that the armament of Russia could not be at the level which we imagined it to be. Exact proof, however, we did not have at our disposal.

DR. LATERNSER: Therefore, Hitler did not listen to any of the misgivings which you had?

VON BRAUCHITSCH: He would not enter into any further discussion.

DR. LATERNSER: When did you tell the commanders-in-chief of the army groups and armies under your command about the plans with regard to Russia?

VON BRAUCHITSCH: On 18 December 1940, the High Command of the Army issued the order and subsequently, at the end of December, the first directives went to the army groups.

DR. LATERNSER: What was your relationship with Hitler during the Russian campaign?

VON BRAUCHITSCH: During the Russian campaign the difficulties increased more and more. I should like to mention only two of the very numerous incidents that occurred. The Army had, in the areas occupied by it, restored the churches to public use as far as this was desired by the population. German chaplains had frequently officiated at the request of the population. However, Hitler prohibited this, and now the remarkable picture was offered by the chaplains of the Romanian, Hungarian, Italian, and other divisions officiating while the Germans could not do so. The second point, which was a weighty one, was the question of the operational conduct of the war. Once the war had started, the measures for its

continuance in the following year had to be taken now, and in my opinion and that of the High Command, the area around Moscow—not the city itself—played a decisive role in this respect. It is the traffic center of the whole country, and accordingly was the required site for the setting up and distribution of the main reserves. There were numerous armament installations which made it possible to equip the new formations. The High Command of the Army, therefore, was of the opinion that after the Dnieper-Smolensk-Lake Peipus line had been reached, one would then have to come into possession of the entire Moscow region. Hitler was of a different opinion. He put the decisive importance on Leningrad and then he demanded the offensive at Kiev. It was he who took the decision in this matter. And then, afterwards, it was too late. The offensive in the Moscow region was doomed to fail because of weather conditions.

DR. LATERNSER: Regarding the Eastern campaign, I should like to clear up certain matters of subordination. Do you know of an agreement between the Quartermaster General of the Army, General Wagner, and Heydrich concerning the Einsatz groups?

VON BRAUCHITSCH: It was reported to me that a conference between General Wagner and the Chief of the SS Main Office, Heydrich, had taken place. According to an order of the High Command of the Armed Forces this conference was to settle those questions which were necessary to regulate the commitment of the Kommandos in the operational region of the Army, as ordered by Hitler.

It was reported to me that the problems involved were things such as the matter of boundary violations, the questions of economic supply, and the right of way on the roads. Nothing else was reported to me, and whether other subjects were discussed I do not know, but at the best, the question might perhaps have been discussed as to whether Kommandos which were sent to the front area became subordinated to the local commander. All directives for these detachments were issued through the usual channels by the Reichsführer SS. At the request of the Army, army groups and armies were given liaison detachments. They had only the task of informing these units about the objective, *et cetera*, of the operations as far as it applied to them. In this order of the High Command of the Armed Forces it says, regarding the purpose and the task of these detachments:

> "It is intended to transform the occupied territories, as soon as possible, into political states. In order to prepare the measures, these Kommandos are to be used. This was the only information received by the High Command of the Army."

DR. LATERNSER: Did General Wagner report to you that through these Einsatz groups mass exterminations would be carried out?

VON BRAUCHITSCH: No.

DR. LATERNSER: The witness SS Führer Schellenberg was interrogated here, and he stated that he was of the conviction that the High Command of the Army knew of mass exterminations and had reported this to the commanders-in-chief through official channels. Is this right?

VON BRAUCHITSCH: He is speaking of a conviction, not of a certainty, and this conviction is not right.

DR. LATERNSER: To whom were these units subordinated?

VON BRAUCHITSCH: The subordination of the Einsatzkommandos, as I have already mentioned, was set up in such a way that all orders emanated solely from the Reichsführer SS. They were not subordinated to the Army in any way.

DR. LATERNSER: How about supply? Were they subordinated to the Army in that way?

VON BRAUCHITSCH: No, not even in that way. They were instructed to obtain their supplies from the Army for there was no other way of supplying rations or fuel.

DR. LATERNSER: Did you receive official reports from these Einsatz groups?

VON BRAUCHITSCH: No.

DR. LATERNSER: Now, the subordination of the Waffen-SS will have to be cleared up as well. Just what was the subordination of a Waffen-SS division to the Army?

VON BRAUCHITSCH: The Waffen-SS was subordinated to the Army only for tactical purposes. It was subordinated to the Army neither for discipline nor for judicial matters. The Army had no influence on promotions or demotions of people, and so forth.

DR. LATERNSER: To whom was a Waffen-SS division subordinate, when it was not engaged in a tactical task? That is, when it was neither in battle nor in the operational area?

VON BRAUCHITSCH: In any event, not the Army. It was subordinate to the Reichsführer SS or to the High Command of the Armed Forces.

DR. LATERNSER: And to whom was it subordinate in the home area?

VON BRAUCHITSCH: To the Reichsführer SS.

DR. LATERNSER: Was the Waffen-SS paid out of the budget of the Wehrmacht?

VON BRAUCHITSCH: Certainly not from the budget of the Army.

DR. LATERNSER: And the budget of the Luftwaffe and the Navy would be even less concerned . . .?

VON BRAUCHITSCH: Just as little, I think. As far as I know, the SS not only had its own budget, but it also had its own armament, clothing, and administrative departments, *et cetera.*

DR. LATERNSER: Therefore, between a Waffen-SS division and the Army there was close and tactical contact only when this Waffen-SS division was actually in combat?

VON BRAUCHITSCH: It was under the Army the moment it was used in an operational area, or when, in order to be moved up, it was placed at the Army's disposal.

DR. LATERNSER: Would it be a good comparison if I were to say that between a Waffen-SS division and the Army no closer connection existed than if, for instance, an Italian or Spanish division had been subordinate to the Army for a battle?

VON BRAUCHITSCH: That would have been similar.

DR. LATERNSER: In general, what was the relationship of the leadership of the Waffen-SS to that of the Army, Luftwaffe, or Navy? Was it a particularly harmonious one?

VON BRAUCHITSCH: Under battle conditions, yes, otherwise there was little connection.

DR. LATERNSER: Field Marshal, can you give us the circumstances under which Hitler issued the notorious Commissar Order?

VON BRAUCHITSCH: In March 1941 Hitler had summoned the military leaders, and in a rather lengthy address he once more stated the reasons for the attitude to be adopted towards Russia. He went on to say that it was a battle which was of an ideological nature, which could not be fought with the chivalrous methods to which the Army was accustomed. He knew that the officers could not make this opinion their own, but he was demanding the unconditional execution of the orders he issued. And in connection with this, he issued the order dealing with the treatment to be given to the commissars.

DR. LATERNSER: What did you do in order to prevent the carrying out of this order and to prevent excesses on the part of the troops in the East?

VON BRAUCHITSCH: At the conclusion of the conference, after Hitler had left, some of the commanders-in-chief came to me and I

remember particularly well that the commanders-in-chief of the three army groups, Field Marshal Von Rundstedt, Field Marshal Von Bock, and Field Marshal Von Leeb, as well as another group of army commanders, came to me and in an excited manner expressed themselves to the effect that such a way of waging war was intolerable to them. I agreed with their point of view and told them that as far as the High Command of the Army was concerned no order like that would be issued. I would first have to think things over as to what steps I might take.

In the meantime I had come to know Hitler well enough to know that once he had reached a decision and announced it publicly, in this case to the military leadership, nothing in the world could change this attitude. I knew also that I had to give a pretext to the Army for not adhering to this order. For this reason I issued an order dealing with the maintenance of discipline.

DR. LATERNSER: And what was the approximate wording of this order on discipline?

VON BRAUCHITSCH: It is not possible for me to give you the wording; however, the substance of the order, briefly, was as follows:

Discipline in the Army was to be strictly observed, along the lines and regulations that applied in the past. The attitude towards the population was to remain correct in every way, and any excesses were to be punished.

DR. LATERNSER: Would an open refusal or your threatened resignation have been successful with Hitler?

VON BRAUCHITSCH: I have already said so—no.

DR. LATERNSER: Now, one more question dealing with the Eastern campaign. Did the German Army, in 1941, in its push through Russia, find considerable destruction wrought by the Soviet Army when it retreated?

VON BRAUCHITSCH: The situation was quite what we expected it to be. The lack of consideration of Russia for her own country, in such circumstances, was well known for a century past. There were numerous bridges and railways which had been destroyed; power plants and numerous factories too. The mines in the Donets Basin were damaged in such a way that even though we worked for months they could hardly be used by us. In the cities we met special detachments of young Russian troops, who had partly carried out their task of burning the villages; in Kiev and other places we found delayed action mines which had been prepared by them, which caused us considerable loss.

DR. LATERNSER: Before the entry of Italy into the war, or before the declaration of war on America, were you advised of it in advance?

VON BRAUCHITSCH: No. We regretted both incidents very much.

DR. LATERNSER: Were military agreements with Japan known to you?

VON BRAUCHITSCH: I do not even know them today.

DR. LATERNSER: The records dealing with the testimony of Gisevius are known to you through the fact that I gave them to you for your perusal. Do you know the witness Gisevius?

VON BRAUCHITSCH: In April 1946, I learned of the existence of Herr Gisevius for the first time from the newspapers. In the papers I read that he was to appear here as a witness. I would have overlooked it, if the name had not struck me as familiar, for a Dr. Gisevius was our family physician in the nineties.

DR. LATERNSER: But the witness gave various and quite detailed statements about your person and especially to the effect that he talked with you about taking part in a "Putsch" together. What can you say about that?

VON BRAUCHITSCH: I believe that anyone who knows me, however slightly, would laugh at the thought that I would discuss plans of a Putsch against the head of the State with a young person who is a complete stranger to me.

DR. LATERNSER: These statements . . .

VON BRAUCHITSCH: I can only try to reconstruct the situation from the records; from these my impression is that those are the entirely unsupported fabrications of a man who believes that the whole world is revolving about him alone.

DR. LATERNSER: Gisevius further stated that the generals had enriched themselves. Is that true?

VON BRAUCHITSCH: I do not quite know in which way.

DR. LATERNSER: Did you yourself receive any grants?

VON BRAUCHITSCH: No.

DR. LATERNSER: Field Marshal, you furnished two affidavits to the Prosecution, Affidavit Number 2, Exhibit Number USA-532, and Affidavit Number 4, Exhibit Number USA-535; both of them bearing the date 7 November 1945. Were you under arrest at that time?

VON BRAUCHITSCH: Two American officers had asked me to tell them about the organization of the Army, and so forth.

DR. LATERNSER: Field Marshal, I believe you misunderstood me. I asked you whether, at the time you made these affidavits, you were under arrest?

VON BRAUCHITSCH: Since 19 October of last year I have been a witness in custody in the prison here at Nuremberg.

DR. LATERNSER: And about these affidavits, who set down these statements?

VON BRAUCHITSCH: They were drafted by two American officers.

DR. LATERNSER: And who demanded these statements?

VON BRAUCHITSCH: That I do not know; no names were mentioned.

DR. LATERNSER: Were you told for what purpose these statements were to be used?

VON BRAUCHITSCH: No. From the preceding conferences, I assumed that the statements were to serve the purpose of informing the experts about the organizations.

DR. LATERNSER: Did you make any alterations?

VON BRAUCHITSCH: I made a series of alterations but I cannot tell you how many.

DR. LATERNSER: These statements—in your own opinion, of course—could they be misunderstood?

VON BRAUCHITSCH: Even after I had made the changes I was of the opinion that they were clear only in conjunction with the conversations that had taken place previously. They were a series of conversations which I was told were not made under oath, a matter which, of course, was of no consequence to me anyway; they were for the purpose of gathering information about the organization. All the problems were often discussed and looked at from different angles.

DR. LATERNSER: In signing Affidavit Number 2, which contains the sketch, did you point out that this sketch was not correct or might be misunderstood?

VON BRAUCHITSCH: I pointed to the fact that this sketch might be misunderstood and I received the answer that matters were entirely cleared up and that the sketch was not very important in any case.

DR. LATERNSER: Affidavit Number 1, Exhibit Number USA-531, which General Halder signed on the same day, agrees literally with your Affidavit Number 2 with the exception of the last paragraph; were you interrogated together with General Halder?

VON BRAUCHITSCH: No.

DR. LATERNSER: As you just mentioned a moment ago, when signing the Affidavit Number 2 you pointed to the fact that the

sketch was incorrect. Now, I shall have this sketch presented to you and I should like to ask you just what is wrong in it.

VON BRAUCHITSCH: This chart causes misunderstandings . . .

THE PRESIDENT: Hadn't you better ask the witness—if he is your witness—whether there is anything wrong about the affidavits?

DR. LATERNSER: Mr. President, I beg your pardon, I did not understand you—I was listening on the wrong channel.

THE PRESIDENT: Hadn't you better ask him whether there is anything wrong in his affidavit? He hadn't yet said there was anything wrong about that.

DR. LATERNSER: Mr. President, I shall ask questions about that presently. First of all, I want to ask the witness about this sketch and the further questions, of course, will follow.

VON BRAUCHITSCH: This sketch may be misinterpreted, especially insofar as the lines are concerned, and if you wish to show the hierarchy by means of this sketch, then, in my opinion, not all the staffs of the High Command of the Armed Forces and the various branches of the Armed Forces should be shown in this sketch.

THE PRESIDENT: Now, the Tribunal would like to know whether this witness is saying that there is anything wrong with this affidavit; whether it is not true.

DR. LATERNSER: Yes, Mr. President.

Field Marshal, in Affidavit Number 2, you used the word "Gruppe" four times. Is this expression . . .

THE PRESIDENT: I said the Tribunal would like to know now whether this witness says there is anything untrue in his affidavits, and we want to know it now. Do you understand the meaning of the word "now"?

DR. LATERNSER: Yes.

THE PRESIDENT: Well, I will ask the witness myself.

[Turning to the witness.] Field Marshal Von Brauchitsch, are you saying that there is anything wrong in your affidavits, your two affidavits, which is inaccurate or untrue?

VON BRAUCHITSCH: No, nothing which is untrue, but something which can be misunderstood . . .

THE PRESIDENT: Something which you mean might be misleading?

VON BRAUCHITSCH: Various questions which might lead to misunderstandings. One thing is the sketch, and the second thing which might lead to error is the expression "Gruppe" (group). This

I understand to mean a "figure" or "number," but not comprising a certain number—a certain series of offices in organizational or technical respects. For no connection whatsoever existed between the various branches of the Armed Forces. There was a connection at the top, the Supreme Commander of the Armed Forces, Adolf Hitler, and Hitler personally always played off one branch of the Armed Forces against another. He repeatedly talked to me about the Navy and the Luftwaffe and their commanders-in-chief in this way, and I know that he did the same thing about the Army and myself. The expression "Gruppe" therefore can be misunderstood and is misleading in its context here. It was understandable only in conjunction with the conversations that we had before.

DR. LATERNSER: Field Marshal, this expression "Gruppe"—did you use this expression yourself when you talked with the Prosecution?

VON BRAUCHITSCH: Well, I really cannot say that exactly. It is quite possible, for by the word "Gruppe" I do not understand anything other than a number of people, or a series, but not anything organizational or anything closely bound together.

DR. LATERNSER: And this is the meaning which you said just now you wanted the term "Gruppe" to imply when you signed the statement?

VON BRAUCHITSCH: Yes.

DR. LATERNSER: Before then, that is, before this interrogation by the Prosecution dealing with this point, had you used the word "Gruppe" in connection with the highest military leadership?

VON BRAUCHITSCH: No, for such a group did not exist, neither in organizational nor in technical respects. In the German Army we know only the gradation according to the war organization (Kriegsgliederung), that is, division, corps, army, or whatever the case might be.

DR. LATERNSER: Now I shall turn to my last questions, Field Marshal. At the end of the year 1941 you resigned. What were the reasons for your resignation?

VON BRAUCHITSCH: In the summer of 1941, Hitler's strongly growing influence on all Army questions and the impotence on the part of the High Command of the Army in all spheres of political and economic administration of the occupied countries, and their inner opposition to the policy followed by Hitler, was becoming stronger and sharper. In the autumn of 1941, this tension increased still more. Parallel with that, there were the constant battles with the leadership of the Party, which wanted to increase its influence

on the Army more and more. I saw there was no longer any possibility of bringing about a change in any way. Hard as it was for me to take the decision to leave the Army at a time when millions had lost their lives and to separate myself from it, I nevertheless decided to take the decisive step. On 7 December 1941, I asked Hitler, when I was alone with him, to relieve me of my office. He answered that he would have to think it over and that he did not want to speak about this matter at present. On 17 December, when we were again alone together, he told me that he had decided to take over the command of the Army himself and the reason he gave for doing this was that in view of the seriousness of the winter offensive he would have to put in the scales all the confidence which he enjoyed in the Army. On 19 December—he again told me not to say anything—on 19 December I received the order. On 20 December in the evening I traveled home, and I did not see Hitler again after that. Hitler was the fate of Germany and this fate could not be stayed.

DR. LATERNSER: I have no further questions to put to this witness.

THE PRESIDENT: The Tribunal will adjourn.

[A recess was taken.]

THE PRESIDENT: Does the Prosecution wish to cross-examine?

COL. TAYLOR: Witness Brauchitsch, counsel for the General Staff has made reference to two affidavits. Can you hear me? Can the witness hear me?

VON BRAUCHITSCH: Yes.

COL. TAYLOR: Counsel for the General Staff has made reference to two affidavits which you signed. Did you have full opportunity to make changes in those affidavits before you signed them?

VON BRAUCHITSCH: Yes, I have had that.

COL. TAYLOR: I will ask that a copy of the original of Affidavit Number 2 be shown to you. Did you, in fact, make changes in the affidavits before you signed them?

VON BRAUCHITSCH: I did not understand your question.

COL. TAYLOR: Did you make changes in the affidavits before you signed them?

VON BRAUCHITSCH: I made a few changes.

COL. TAYLOR: Will you please look at the last sentence in the affidavit that I have just handed you? Is that sentence . . .

VON BRAUCHITSCH: Which part do you mean?

COL. TAYLOR: The very last sentence, Page 2. Is that last sentence entirely in your own handwriting?

VON BRAUCHITSCH: Yes.

COL. TAYLOR: And that last sentence, would you read it please? Would you please read the last sentence in your own handwriting?

VON BRAUCHITSCH: "In the hands of the departments shown in the sketch was, in fact, the direction of the Armed Forces."

COL. TAYLOR: Is that sentence, as you wrote it, correct?

VON BRAUCHITSCH: Supplementary to what I said before, I had pointed out that the sketch might lead to misunderstanding, whereupon I was told that that was already known. For that reason I connected the sketch with the departments of the hierarchy.

COL. TAYLOR: The sketch is attached to the affidavit which you signed, and the last sentence, as you have read it, says that, "In the hands of the departments shown in the sketch was, in fact, the direction of the Armed Forces." There is no misunderstanding or qualification about that sentence, is there?

VON BRAUCHITSCH: Only as far as I have pointed out that the individual sections of the staffs did not fit in as shown in the sketch, but were included independently, and that in reality all the other sections of the working staffs were included too.

COL. TAYLOR: Your Honor, with respect to the question concerning the Eastern Front, I'm bearing in mind that the witness Von Manstein, who is next to be called, was on the Eastern Front and remained there until 1944, while the witness Von Brauchitsch retired in 1941. The Prosecution prefers to reserve this question on those matters for the witness Von Manstein. With respect to the questions on aggressive warfare, those relate almost entirely to documents which have been before the Tribunal for a long time. The American Prosecution sees nothing to be gained by putting those documents to this witness. It is entirely a matter of argument which will be made at a proper time. Accordingly, the American Prosecution has no further questions to the witness.

THE PRESIDENT: Do the chief prosecutors wish to ask any questions?

MAJOR GENERAL G. A. ALEXANDROV (Assistant Prosecutor for the U.S.S.R.): Witness, you stated here today that a plan for an attack on Czechoslovakia did not exist, and that in any case you were not informed about it. Did I understand you correctly?

VON BRAUCHITSCH: Yes.

GENERAL ALEXANDROV: And you were not aware of "Case Green"?

VON BRAUCHITSCH: "Case Green" was known to me, but it referred to something quite different. "Case Green" was prepared earlier, based on the assumption that a joint attack by France and Czechoslovakia was to take place against Germany. Thus the problems were treated before my time. I myself did not know the details of "Case Green."

GENERAL ALEXANDROV: But "Case Green" dealt with the conquest of Czechoslovakia, is that right? I repeat, the plan called "Case Green" was a plan for the conquest of Czechoslovakia, was it not?

VON BRAUCHITSCH: As far as I know "Case Green" was only connected with an attack, a declaration of war on the part of France and Czechoslovakia on Germany. Another . . .

GENERAL ALEXANDROV: In that case, I shall remind you of another document. I mean Hitler's decree of 30 May 1938, the first copy of which was sent to you as Commander-in-Chief of the Army. This directive was issued for the purpose of carrying out "Case Green." I shall read into the record Point 1 on the second paragraph of the decree, which states:

"It is my irrevocable resolution to shatter Czechoslovakia, in the near future, by a military operation."

Did you have knowledge of that directive?

VON BRAUCHITSCH: Yes, I know that directive.

GENERAL ALEXANDROV: Thus there was really a plan for the conquest of Czechoslovakia, is that not so?

VON BRAUCHITSCH: I do not understand the meaning of that question.

GENERAL ALEXANDROV: I am asking you, was there actually a plan for the conquest of Czechoslovakia or not?

VON BRAUCHITSCH: In May 1938 Hitler told me about that idea of his for the first time. But you have to take into consideration in this connection that Hitler, as is generally known, always expressed himself in the strongest terms. It was extremely difficult for one to discern Hitler's actual will from his speeches.

GENERAL ALEXANDROV: The next question is this. Tell me, Witness, in what way did you learn about conversations between General Wagner and Heydrich, the Chief of the Security Police and the Security Service? How did you get to know it?

VON BRAUCHITSCH: From a report received from General Wagner.

GENERAL ALEXANDROV: Was General Wagner subordinate to you?

VON BRAUCHITSCH: He came under the Chief of the General Staff and thereby he was subordinate to me.

GENERAL ALEXANDROV: That means that the talks between General Wagner and Heydrich were taking place with your knowledge?

VON BRAUCHITSCH: It was reported to me afterwards.

GENERAL ALEXANDROV: And you assert that you did not know anything either about the tactical activity of the Einsatzgruppen of the Police, which are laid down by this agreement, nor about the fact of their close co-operation with the Armed Forces? Do you assert that?

VON BRAUCHITSCH: I repeat what I have said before. There was an order of the High Command of the Armed Forces to the effect that the Reichsführer SS was to set up Kommandos which were to prepare the necessary steps for the transformation of states to political states. Nothing more than that was ever known to me and the general did not report to me about it. No other reports of that kind ever reached me. If I had received any, I would have taken steps against them just as in the case of Poland. I would not have connived with them in any way had I known of them.

GENERAL ALEXANDROV: You were not even aware of the fact that these Einsatzkommandos worked in close contact with the commands of the Armed Forces? Did you know about that?

VON BRAUCHITSCH: No, they did not work together with the commands of the Armed Forces or of the Army.

GENERAL ALEXANDROV: I shall quote an extract from Document L-180, Exhibit USA-276, which is a report of the Einsatzgruppe A of the SD on 15 October 1941. The report of this Einsatzgruppe states, I quote:

> "Einsatzgruppe A, after preparing its vehicles for action, proceeded to their area of concentration as ordered, on 23 June 1941, the second day of the campaign in the East. Army Group North, consisting of the 16th and 18th Armies and Panzer Group 4, had advanced the day before.
>
> "Our task was to quickly establish personal contact with the commanders of the armies and with the commander of the rear. It must be stressed from the beginning that the co-operation with the Armed Forces was generally good; in some cases, for instance with Panzer Group 4 under Generaloberst Hoeppner, it was very close, almost cordial."

And further on:

"At the start of the Eastern campaign it became obvious with regard to the Security Police that its special work had to be done not only in the rear area of the armies as was provided for in the original agreements with the High Command of the Army, but also in the combat areas."

Did you have knowledge about such a close contact between these Einsatzgruppen and the High Command of the Armed Forces?

VON BRAUCHITSCH: No report reached me about it and consequently I knew nothing about it.

GENERAL ALEXANDROV: You stated here that you had canceled Hitler's decrees about the shooting of captured Soviet commissars. Did I understand you right?

VON BRAUCHITSCH: Yes.

GENERAL ALEXANDROV: What was Hitler's reaction to your disregarding this decree?

VON BRAUCHITSCH: He never said anything to me about it—I do not know, he never reacted.

GENERAL ALEXANDROV: And you never notified Hitler that you were suspending his decree?

VON BRAUCHITSCH: No.

GENERAL ALEXANDROV: How did it happen that the decree was actually carried out, as a great many Soviet commissars who were taken prisoner were annihilated by the German troops?

VON BRAUCHITSCH: I am not in a position to answer that, because I never received a report about it. I received reports only that the order had not been carried out.

GENERAL ALEXANDROV: Now a last question. When defendant's counsel asked you your reasons for leaving the Army, you stated that you retired, because of a difference of opinion about Hitler's policy, and because of these differences you asked for and finally received your release. Is that correct?

VON BRAUCHITSCH: Yes.

GENERAL ALEXANDROV: That means that those generals of the German Army who did not agree with Hitler's policy and his form of government, did have the possibility to resign and not follow this policy. Is that correct?

VON BRAUCHITSCH: Unfortunately, no. Hitler had explicitly ordered that no one was allowed to leave, and besides one could not go as one liked. In my case it suited him, because he needed a scapegoat for the failure of the Russian winter campaign. That

was expressed later on in the propaganda spread in Germany, which blamed me for these matters.

GENERAL ALEXANDROV: I have no further questions, Mr. President.

DR. LATERNSER: I have only a very few questions, which I wish to put following the cross-examination.

[Turning to the witness.] In this Document Number L-180, which has just been quoted by the Russian prosecutor, Generaloberst Hoeppner is mentioned. Did you know Generaloberst Hoeppner well?

VON BRAUCHITSCH: I have known him since 1914. He was my chief of staff in East Prussia and therefore I knew him extremely well.

DR. LATERNSER: You surely knew his attitude then with regard to the use of violence, such as was displayed later on by the Einsatz forces?

VON BRAUCHITSCH: Generaloberst Hoeppner was a straightforward and honest soldier. He would refuse to do anything which would not be in keeping with his education and his training.

DR. LATERNSER: Is Generaloberst Hoeppner alive?

VON BRAUCHITSCH: He was a victim of the events of 20 July.

DR. LATERNSER: In other words, it was because of his attitude regarding such methods that he was sentenced to death. Is that right?

VON BRAUCHITSCH: Yes, it is.

DR. LATERNSER: Could you explain how it was possible that, according to the report, an almost cordial co-operation was said by the writer to have existed between the Einsatzgruppe and Generaloberst Hoeppner?

VON BRAUCHITSCH: The only way I could explain what happened, as I said earlier in my testimony in regard to my negotiation with General Wagner and the Chief of the SS Main Office, Heydrich, is that there might have been co-operation at the actual fighting front. Besides, the conditions in the North were extraordinarily difficult. The tanks were in front, part of the Russians were behind them and behind them again the German divisions. There were the difficulties of bringing up reinforcements and supplies. I can well imagine that these groups were assigned to protect and secure the supply lines. As already stated I never received reports about that.

DR. LATERNSER: Did you know General Wagner well?

VON BRAUCHITSCH: Yes, I did.

DR. LATERNSER: What was his attitude in regard to such methods of violence?

VON BRAUCHITSCH: He committed suicide on 20 July 1944. He was in any case against any measures which would have been in contradiction to law, decency, and humanity or a violation of the rules of the Hague and the Geneva Convention.

DR. LATERNSER: One would have expected that if he knew from a conference with Heydrich that mass executions were to be effected by these special Einsatzgruppen, in view of his own attitude he would have made a report to you?

VON BRAUCHITSCH: Yes, surely.

DR. LATERNSER: Thank you; I have no further questions.

THE PRESIDENT: Witness, you read the evidence of the witness Gisevius?

VON BRAUCHITSCH: Yes, Sir.

THE PRESIDENT: And are you telling the Tribunal that insofar as it refers to yourself, it is entirely untrue?

VON BRAUCHITSCH: Yes, Sir.

THE PRESIDENT: Now I want to ask you another question. When the Commissar Order was communicated to you, before the war upon the Soviet Union was made, what orders did you give?

VON BRAUCHITSCH: I gave the order, which I mentioned earlier, to maintain discipline and see that correct treatment was to be accorded to the population by the German soldiers, and that all excesses were to be punished.

THE PRESIDENT: That is to say that you did not give any order directly referring to the Commissar Order?

VON BRAUCHITSCH: No. I could not rescind the order directly, but I did give an order which was unmistakable and which gave my views and convictions.

THE PRESIDENT: You gave your order in writing, did you?

VON BRAUCHITSCH: Yes.

THE PRESIDENT: And are you telling the Tribunal that you never knew during the rest of 1941 that the Commissar Order was being carried out?

VON BRAUCHITSCH: Mr. President, I am not trying to tell stories. I am merely telling the truth when I say that I did not receive any reports on it and consequently cannot say anything about it. Wherever I made inquiries about it, I only received the information that the order was not being carried out.

THE PRESIDENT: Well, then you are saying that as far as you know it was not carried out until the time you retired?

VON BRAUCHITSCH: Yes, and more I cannot say, Mr. President.

THE PRESIDENT: I am only trying to find out what you do say. The witness can now retire.

VON BRAUCHITSCH: Mr. President . . .

THE PRESIDENT: Witness, did you want to say anything more?

VON BRAUCHITSCH: No, Mr. President.

[The witness left the stand.]

THE PRESIDENT: Now, Dr. Laternser.

DR. LATERNSER: As my second witness I am going to call Field Marshal Von Manstein.

[The witness Von Manstein took the stand.]

THE PRESIDENT: Will you state your full name, please?

VON MANSTEIN: Erich von Manstein.

THE PRESIDENT: Will you repeat this oath after me:

I swear by God—the Almighty and Omniscient—that I will speak the pure truth—and will withhold and add nothing.

[The witness repeated the oath.]

THE PRESIDENT: You may sit down.

DR. LATERNSER: Field Marshal, what was the last position you held?

VON MANSTEIN: My last appointment was Commander-in-Chief of Army Group South.

DR. LATERNSER: How did you get that position?

VON MANSTEIN: I was given that position in November 1942 on the strength of an order from Hitler.

DR. LATERNSER: The other commanders-in-chief were appointed in a similar way, were they not?

VON MANSTEIN: Yes.

DR. LATERNSER: For many years you have held important positions in the General Staff. In which capacity?

VON MANSTEIN: In the last war I was in the General Staff with the troops. Then in 1929 I joined the Reichswehr Ministry; there I joined the First Division of the Troops Department.

DR. LATERNSER: Was the General Staff an elite body which set the standard in the Armed Forces?

VON MANSTEIN: The General Staff officers were an elite group as far as they were selected on the basis of their tactical abilities

and also on the strength of their character. They did not set the tone in the Army, as their views were exactly the same as the views of all other officers. As to the General Staff setting the tone in the Armed Forces, there really cannot be any question of that. The Navy did not have a General Staff. As for the Air Force, as far as I can judge, the General Staff officers may have played a smaller part than "outsiders" like Milch, Udet, and so forth, but to begin with, the Armed Forces did not have an Armed Forces General Staff. Therefore one can hardly speak of the General Staff setting the tone within the Armed Forces.

DR. LATERNSER: Did the General Staff have authoritative influence on all military plans? And was it, shall we say, the brain of the Army?

VON MANSTEIN: At its headquarters, that is, in the Reichswehr Ministry, the General Staff dealt in its various departments with the main questions as far as they concerned the direction and employment of troops. But all other matters were in the hands of the various departments or of the Army Inspectorate. These offices worked in parallel with the General Staff, and as far as matters referring to the troops were concerned, they were dealt with in these departments.

DR. LATERNSER: But then surely the General Staff gave opinions?

VON MANSTEIN: The General Staff could, of course, express itself on the questions dealt with by the departments, on training and armament, for instance. But the chiefs of the other departments were on exactly the same level as the chiefs of the Troops Department, and important personnel questions, in particular, were dealt with entirely outside the General Staff.

DR. LATERNSER: Was the Chief of the General Staff the decisive adviser to Hitler, or was it the Commander-in-Chief of the Army or of the Air Force?

VON MANSTEIN: One cannot possibly say that the Chief of the General Staff was the decisive adviser of Hitler. The position of Chief of the General Staff in the Armed Forces of the Third Reich differed entirely from the position held by the Chief of the General Staff at the time of the Kaiser. In those days the Chief of the General Staff was immediately subordinate to the Kaiser, that is to say, he could report directly to him.

In the Wehrmacht (Armed Forces) of the Third Reich on the other hand, and even of the Weimar Republic, that was entirely different. The Chief of the General Staff of the Army, for instance, was nothing else than the adviser of the Commander-in-Chief of the Army regarding matters of military leadership. Between him and

Hitler there was, first of all, the Commander-in-Chief of the Army and then, as long as we had a Minister of War, in the person of Blomberg, there was the Reich Minister of War, too. Thus, there was no question at all of the Chief of the General Staff advising Hitler. But even as regards the Commander-in-Chief of the Army, he shared his work, in peacetime at least, with the chiefs of the departments, that is to say, the Personnel Department, the Armament Department, and the Defense Department, who were all on his own level.

DR. LATERNSER: Was there a special service channel for the General Staff?

VON MANSTEIN: A special service channel for the General Staff did not exist. On the contrary, that was strictly taboo. Towards the end of the first World War something similar was developed when Ludendorff in practice had gained control of military matters and always communicated with the General Staff chiefs who were his subordinates instead of addressing himself to the commanders-in-chief themselves. This deterioration, as I might call it, of military leadership was radically done away with by Generaloberst Von Seeckt, and a special service channel for the General Staff as is meant here therefore did not exist.

DR. LATERNSER: And what about the privilege of recording varying opinions?

VON MANSTEIN: In the old Army, every chief of the General Staff had the right, if he was of an opinion that differed from that of his commander, to record that dissenting opinion, although, of course, he had to carry out the order of his commander. In the Armed Forces of the Third Reich, on the other hand, that was expressly discontinued with the agreement of the Chief of the General Staff, General Beck.

DR. LATERNSER: Was the High Command of the Armed Forces, shall we say, the central brain of the Armed Forces?

VON MANSTEIN: The High Command of the Armed Forces, of course, in the form in which it is now being mentioned, only came into being in 1938 as a working staff for Hitler. Before that Blomberg was Reich Minister of War, and in his position as a Minister he held a position which dealt with all matters affecting the Armed Forces, which he represented to both State and Party. In his hands, too, was the distribution of funds for the various branches of the Armed Forces as well as the rearmament capacity for the Armed Forces. Gradually, no doubt, Blomberg was trying to achieve a more outstanding leadership of the Armed Forces, but in that connection he soon got into considerable difficulties, particularly with the High Command of the Army, for the reason that in the opinion of the

High Command of the Army Blomberg was too lenient with the Party. He himself then attempted to establish a sort of tactical leadership staff, which later became the Armed Forces Operations Staff. But that was still in the early stages. Then came his dismissal, and subsequently the Wehrmachtführungsstab (Armed Forces Operations Staff) was created under Hitler. This, however, is not to be regarded as the head of the three General Staffs of the Armed Forces or as the dome of the structure; it was nothing else than the practical leadership staff of the Führer.

DR. LATERNSER: Did the high commands of the Armed Forces branches or the General Staff nevertheless agree with the High Command of the Armed Forces in their aims?

VON MANSTEIN: Naturally the three branches of the Armed Forces were in agreement with the High Command of the Armed Forces that the national element should be kept up. Furthermore, that they were there to uphold the idea of national honor, of equality, and most of all security for Germany, which they considered to be their task. Apart from that, one can hardly speak of a unified determination. I should like to say, for instance, that the Army had one basic thought, which was that under no circumstances must Germany ever again fight a war on two fronts. The Navy, in my opinion, was always guided by the idea: never again war with England. What Göring, as the reigning head of the Air Force aimed at personally, I cannot judge. But I do not suppose that he was interested in jeopardizing the position of the Third Reich and his own position in another war.

DR. LATERNSER: And the High Command of the Armed Forces?

VON MANSTEIN: As far as the High Command of the Armed Forces is concerned, if it had a will of its own at all, it did not, in my opinion, have the possibility seriously to express that will in opposition to Hitler.

DR. LATERNSER: What was the importance of the Schlieffen Club and what were its aims?

VON MANSTEIN: The Schlieffen Club was, generally speaking, a club of elderly gentlemen who were ex-members of the General Staff. Apart from that, General Staff officers and assistants to leaders of the young Wehrmacht were in it, too. They met once a year at an annual dinner preceded by a so-called business meeting during which the treasurer's report was read; and that was about the principal business. Then, of course, the Schlieffen Club had a council of honor, which usually had to occupy itself with settling quarrels between the older members resulting from Ludendorff's attitude toward Hindenburg.

We younger ones did not go to those discussions any more; and apart from that we were not subject to this council of honor. Any political or military aims on the part of this club did not exist and, at all events, it cannot be considered a club where intellectual schooling or training was being carried on, taking the place of the General Staff.

DR. LATERNSER: What were the relations between the 129 military leaders affected and the High Command of the Armed Forces and the General Staff?

VON MANSTEIN: The bulk of them, according to their position, had no relationship to them at all.

DR. LATERNSER: A little more slowly, Field Marshal.

VON MANSTEIN: Only four of them belonged to the High Command of the Armed Forces, these are Keitel, Jodl, Warlimont and Winter; and only the Chiefs of the General Staff of the Luftwaffe and of the Army belonged to the General Staff, although they were changed frequently. I think there are five of each of the Armed Forces branches. All the others belonged neither to the General Staff nor to the High Command of the Armed Forces.

DR. LATERNSER: But what else are these military leaders?

VON MANSTEIN: They are the holders of the highest positions in the military hierarchy, as they are in every country.

DR. LATERNSER: Did not these military leaders, according to their views, represent an entity with a uniform will?

VON MANSTEIN: Naturally, as far as the conception of their work was concerned, they agreed; that is a matter of course. Also they agreed regarding the view of the necessity of Germany's being strong because she was surrounded by three neighbors from whom one might, after all, expect one thing or another. Over and above that, however, such a uniformity of thought cannot be spoken of. I might say that, horizontally considered, the three branches of the Armed Forces were on the same level; and each branch had different military ideas and aims which were quite often at cross purposes. Considered vertically, these 129 officers in the military hierarchy were classified in four grades, let us say, governed by the relationship of superiors to subordinates. The highest grade was the Führer and his working staff, the High Command of the Armed Forces. On that level rested the entire military and political responsibility which, according to military principles, can only be assumed by the highest leader.

The second grade consisted of the three commanders-in-chief of the branches of the Armed Forces. They were responsible for the military tasks of that branch of the Armed Forces which was under

their command. On that level of command, they, of course, had full responsibility. They were, naturally, to a certain extent Hitler's advisers too, if he asked their advice in military matters.

Grade 3, which, in the persons of the 129 officers, only existed in war, comprised the commanders of army groups, and then, below that, Grade 4, the commanders of armies. The commanders of army groups were responsible for the leadership of the operations which they were to carry out. The same measure of responsibility for their armies was in the hands of the army commanders below them, who also exercised territorial authority in their operational areas. But this third and fourth grade had no contact. Let us say, there was no mental nexus with Hitler, with the Führer, because the grade of the commanders-in-chief intervened. They received orders and had to obey them, as in all phases of military life the relationship is that of one who gives orders and one who carries them out.

DR. LATERNSER: How could anyone, within the measure of this responsibility which you have just described, have the possibility of expressing his views on Hitler's plans?

VON MANSTEIN: To state one's view about Hitler's plans was quite out of the question for the third and fourth grades, because they would only learn of them when they appeared in the shape of an order. If in individual cases the commanders-in-chief were called to a conference with Hitler, then it was only to hear the announcement of some unalterable decision already arrived at. The commanders-in-chief of the Armed Forces branches could, of course, when previously asked by Hitler, of which I cannot judge individual instances, state their views, their opinions. How far they might have succeeded in that is entirely another question.

DR. LATERNSER: Now, did not nearly all of these military leaders come from the General Staff, and was it not for that reason that these leaders formed an entity?

VON MANSTEIN: Certainly, a certain part of these leaders did come from the General Staff. In the case of the Army, of the 94 Army officers who are supposed to belong to the so-called organization, 74 had been General Staff officers; 20 on the other hand were not. With the Air Force, there were, as far as I know, only 9 out of 17 ex-members of the General Staff; and the Navy, of course, did not have any at all. Uniformity, let us say, as far as it existed at all, was therefore due to the fact that they had the same military training, the same military courses in the General Staff, but no more.

DR. LATERNSER: So that the conceptions of High Command of the Armed Forces and General Staff on one hand, and these 129 officers on the other, were entirely different?

VON MANSTEIN: Yes, of course they are quite different. They were mainly the military leaders, and not the General Staff and not the High Command of the Armed Forces; and you can neither ideally, nor materially, nor practically, nor theoretically call them one unified organization.

DR. LATERNSER: Were there not certain SS leaders amongst that group? Was not the SS the fourth branch of the Armed Forces?

VON MANSTEIN: No, it certainly was not a fourth branch of the Armed Forces. Certainly a large number of the reasonable leaders of the Waffen-SS, and during the war the mass of the Waffen-SS units wished to be incorporated into the Army. But, naturally, considering the opposing will of the Führer and of Himmler, it was not to be thought of. The units of the Waffen-SS fought during the war very bravely as our comrades at the front; but they were not the fourth branch of the Armed Forces. Quite the contrary, Himmler prohibited everything which could have exerted any influence on the SS by the Armed Forces. That individual leaders of the SS were incorporated amongst the group must be described as grotesque, considering Himmler's personality; because if there ever was a mortal enemy of the Army, it was Himmler.

DR. LATERNSER: Why do you say Himmler was a mortal enemy of the Army?

VON MANSTEIN: There is no doubt whatever that Himmler wanted to replace the Army by his SS; and in my opinion the generals of the Army were particularly persecuted by him with hatred and libel. I know that in my case, at any rate, according to an entirely reliable source, my discharge was largely due to Himmler's intrigues, especially his malicious libel. As far as the other leaders are concerned, I know only that some of them had formerly been in the Reichswehr and had been discharged, so that they were not exactly favorably disposed toward us and did not feel they belonged to us; that is pretty clear.

DR. LATERNSER: But did not the Party and the Armed Forces work together on one plan in the interests of the Reich?

VON MANSTEIN: The Party was working in the political field; and we were working in the soldier's sphere. There can be no talk of a common plan of the Party and the Armed Forces because the prerequisites for it were missing. First of all, the most important requirement, a common basic attitude, was lacking. With many methods of the Party, as is known, we did not agree at all; and if there is no agreement even on such basic questions as, for instance, Christianity, one can say only that the intellectual basis for a common plan is obviously missing.

The second reason against it was the Party's claim for total power, which again and again attempted to influence the Armed Forces, and I can safely say that we officers were fighting a continuous battle against the influences of the Party which sought to win over our soldiers, and thus remove the soldierly element which we represented.

Then the third reason is that under Hitler any planning would have been out of the question. If anyone made a plan, it was Hitler alone, and no one under him was allowed to make plans; people just had to obey. Quite apart from that, in the political and practical life of the Third Reich one branch never knew what the other was doing, or what its orders were, so that here too, there was no kind of uniformity. There was, therefore, a lack of all the necessary prerequisites for such a uniform plan.

DR. LATERNSER: What was your capacity in the General Staff of the Army?

VON MANSTEIN: In the General Staff, that is to say, at the very center, I was from 1929 to 1932 employed as senior General Staff officer, in the First Division of the Troops Department. Then in 1935 I became the chief of the Operations Department of the Army, and in 1936 I became Oberquartiermeister I, that is to say, Deputy Chief of the General Staff of the Army.

DR. LATERNSER: Did the Operations Department come under your command as Oberquartiermeister I?

VON MANSTEIN: Yes, the Operations Department came under my orders. So did the Organization Department and various others.

DR. LATERNSER: So that you as chief of the Operations Department would have had to deal with the employment of troops in the event of war?

VON MANSTEIN: Yes, of course.

DR. LATERNSER: But then you must have been informed about the aim and the degree of armament?

VON MANSTEIN: Yes.

DR. LATERNSER: Please be very brief.

VON MANSTEIN: The goal of our armament, first of all, in the twenties, in the years before the seizure of power, was the most elementary security against an unprovoked attack on the part of any one of our neighbors. After all, since all our neighbors had certain designs on German territories, we had to reckon with such a possibility at all times. We were perfectly aware of the fact that at best we could stand up to such an attack for a few weeks only. But we did want to achieve that at any rate, so as to prevent a *fait accompli,* for instance, in the event of an attack by Poland by the

occupation of Upper Silesia. We wanted to make sure we could put up a fight until the League of Nations would intervene. Practically speaking, we were relying upon the League of Nations, and we could do so only if we ourselves could in no circumstances whatsoever be called the aggressors. At all times, therefore, we had to avoid everything which might be considered a violation of the Treaty of Versailles, or a provocation. For that reason we in the First Division of the Troops Department had formed a special group of officers who had the sole duty, whenever the High Command of the Army, or at that time the Army General Headquarters, were issuing orders, to make sure that no such violations would result from them.

DR. LATERNSER: Did you have plans for a mobilization at the time when you were Oberquartiermeister I?

VON MANSTEIN: Yes. We had the very first mobilization plan, which became effective on 1 April 1930; it concerned the transformation of the 100,000-man Army to a war footing. That mobilization plan was then brought up to date annually after 1930.

DR. LATERNSER: And before that time?

VON MANSTEIN: Until then there was no mobilization plan at all.

DR. LATERNSER: Were there plans for strategic concentrations?

VON MANSTEIN: Plans for strategic concentrations did not exist at all from the end of the first World War until 1935. In 1935 the first strategic concentration plan was worked out; it was the so-called "Red" concentration, which was a defensive "forming-up" along the Rhine, that is along our Western frontier, with defensive "forming-up" at the Czech and Polish borders at the same time. And then a second concentration plan, called "Green," was worked upon in 1937, that . . .

THE PRESIDENT: Witness, by "forming-up" do you mean deployment? What do you call a forming-up plan? You mean deployment?

VON MANSTEIN: By a "forming-up" or "concentration plan" I understand a plan according to which troops, in the event of a threatening of war, are got ready along the frontiers, that is to say, a plan for the event of threatening political conflagration. Whether it may lead to war or whether from this formation one would enter into a war has actually nothing to do with the concentration plan. It merely states how the troops are to be assembled and, in the event of war, what would be the first tasks for the army groups and armies.

DR. LATERNSER: Were those all the troop concentration plans—the two which you have just described?

VON MANSTEIN: Those were the two forming-up plans which I as Deputy Chief of the General Staff had been engaged in. The concentration plan "White," which was against Poland, was not worked out during my time. It must have been worked on in 1939.

DR. LATERNSER: When did you cease to be Oberquartiermeister I at the High Command of the Army?

VON MANSTEIN: I left on 4 February 1938, at the same time when General Von Fritsch was removed.

DR. LATERNSER: And at that time the plan for concentration against Poland was not yet in existence?

VON MANSTEIN: No. Only the concentration plan "Red" existed, which was a defensive measure along the Polish frontier in the event of war.

DR. LATERNSER: What was the attitude of the High Command of the Army with reference to the declaration of Germany's military sovereignty in 1935? At that time you were still in the High Command of the Army, were you not?

VON MANSTEIN: In 1935—no, I was still chief of the General Staff at the headquarters of Wehrkreis III (Military Area Number 3) when military sovereignty was declared. But from my knowledge of the General Staff I know that that declaration completely surprised all of us at the time. I personally, and my commanding general in Berlin, only heard of it over the radio. The General Staff, had it been asked, would have proposed 21 divisions as the size of an Army increase which we would have considered suitable and feasible from a practical point of view. The figure of 36 divisions was due to a spontaneous decision made by Hitler.

DR. LATERNSER: Was the occupation of the Rhineland demanded by the military, and was it intended as a preparation for war?

VON MANSTEIN: No. We did not demand the military occupation, and above all we did not intend it to be a preparation for war. On the contrary, at the time the occupation was carried out, I was the chief of the Operations Department, and I myself had to draft the orders for that occupation. Since we were completely surprised by the decision of the Führer, I had only one afternoon in which to do it, because the following morning the generals concerned came to receive their orders. I know that at that time the Reich Minister of War and General Von Fritsch stated their objections, and warned Hitler against such a one-sided solution of this question. That warning is the first source, in my opinion, for the distrust which subsequently the Führer increasingly felt for the generals. Later, at a private conference which I had with him, he himself admitted that that was so, and particularly that Blomberg at that time, when

France was mobilizing 13 divisions, had suggested that the three battalions which we had pushed across the Rhine to the Western bank should be withdrawn. The intentions we then had for the fortification of the Rhineland were purely defensive ones. The Siegfried Line was planned, just as was the Maginot Line, as a wall which would be as impregnable as possible in the event of attack.

DR. LATERNSER: To what extent did military leaders participate in the case of Austria? Surely you are well informed about that, Field Marshal?

VON MANSTEIN: One morning, and quite to my surprise, I was summoned to the Führer, together with General Beck, the Chief of the General Staff. It was, I think, about 11 o'clock. The Commander-in-Chief of the Army was not in Berlin. Hitler revealed to us that he had decided that the Austrian question was to be settled in view of the intentions announced by Schuschnigg the day before. He demanded our suggestions for a march into Austria, should this be necessary. The Chief of the General Staff thereupon suggested—explained that we should have to mobilize the corps required for this, namely the Bavarian Corps VII and XIII and a Panzer division, but that such a mobilization, in fact such a measure was in no way prepared, since the political leaders had never given us even so much as a hint of such instructions. It would be necessary, therefore, to improvise everything.

First of all, the Führer did not want to agree to this mobilization, but then he realized that if he wanted to march in at all, troops would have to be mobile, and he agreed, saying that he would have to march in the following Saturday—the day before the intended plebiscite—if he wanted to march in at all. The result of it was that the order for the mobilization of these corps had to be given that very day, if the mobilization and concentration of the forces on the border were to be completed in time.

The conference started about 11 o'clock and went on until about 1 o'clock and the orders would have to be ready to go out that afternoon at 6 o'clock. They went out 20 minutes late; I had to draft the orders for this concentration myself, so that I had 4 or 5 hours altogether to do it in. Before that, no thought whatever had been given to such a thing. The so-called Case "Otto" had nothing at all to do with this entire affair.

DR. LATERNSER: So that, as the man responsible for the working out of this order, you had just a few hours from the moment when you knew nothing until the moment the order was ready to be issued?

VON MANSTEIN: Yes, that is right—about 4 or 5 hours.

DR. LATERNSER: Did you, as the responsible Oberquartiermeister I (Deputy Chief of General Staff, Operations), responsible for war plans, know anything at all about the conference which Hitler held on 5 November 1937?

VON MANSTEIN: No, I knew nothing about it.

DR. LATERNSER: Did you participate in the conference of 10 August 1938?

THE PRESIDENT: Dr. Laternser—Witness, the Tribunal would like to know what you say the plan "Otto" was for. What was the plan made for?

VON MANSTEIN: We in the Army did not have a completed plan called "Otto." I only know that that was a code word for some measures or other of the High Command of the Armed Forces, for the event of a restoration attempt on the part of the Hapsburgs in Austria, in connection with Italy. That possibility was always pending, and I want to supplement my statement by saying that at the time when Hitler gave us the orders for Austria his chief worry was not so much that there might be interference on the part of the Western Powers, but his only worry was as to how Italy would behave, because it appeared that Italy always stuck together with Austria and the Hapsburgs.

THE PRESIDENT: Well, are you telling the Tribunal that you do not know whether the plan "Otto" was a plan for the German Army or part of it to march into Austria?

VON MANSTEIN: No, the plan "Otto" only came to my mind and became clear to me when I read the interrogation record of Jodl. In any case, a plan for a march into Austria did not exist in the High Command of the Army, because I had to prepare these orders within a few hours after the conference with Hitler.

THE PRESIDENT: Yes, but if the plan "Otto" was not a plan for the marching into Austria, what was it for?

VON MANSTEIN: That I cannot say because I only know that it was some sort of plan on the part of the High Command of the Armed Forces connected with an attempted restoration of the Hapsburgs in Austria, but we ourselves did not introduce any measures, as far as I can remember, nor do I know whether I myself had anything at all to do with this code name at the time; it may be so, but I do not know now.

THE PRESIDENT: Go on.

DR. LATERNSER: Field Marshal, you participated in the conference on 10 August 1938. What was the purpose of that conference? What was said there?

VON MANSTEIN: That conference was something quite unusual. The Führer had ordered to appear before him at the Berghof the chiefs of the General Staff of those armies which, in the event of a march into Czechoslovakia, would have to take up their positions on the border; but he did not summon the commanders-in-chief to appear, as would have been natural, but only, I might say, the younger generation of chiefs. He must have known from the memorandum of General Beck and its submission by General Von Brauchitsch that the commanders-in-chief and commanding generals opposed any policy which might lead to a war and that was why he summoned us in order to convince us of the necessity and the correctness of his decision.

This was the only and last time, at a meeting of that kind, that he permitted questions and a sort of discussion afterwards. He was mistaken in this, inasmuch as even the chiefs of the General Staff raised objections regarding the possibility of an interference on the part of the Western Powers, and generally regarding the danger of a war that might ensue. This led to a very serious and most unpleasant clash between the Führer and General Von Wietersheim with reference to these questions. After that, whenever such meetings took place, there was not a single occasion when any questions at all, or discussions, were permitted by him.

DR. LATERNSER: Were the operations in Austria and the Sudetenland to be considered military rehearsals for a war?

VON MANSTEIN: No, that they certainly were not, because not only were our troops not fully mobilized, but the mobilization of the corps on the occasion of the march into Austria also demonstrated to us in any case that matters had not yet reached the stage where a reasonably satisfactory mobilization could be effected. If a war had broken out, neither our Western border nor our Polish frontier could really have been effectively defended by us, and there is no doubt whatsoever that had Czechoslovakia defended herself, we would have been held up by her fortifications, for we did not have the means to break through. It cannot therefore be called a military rehearsal. But it was a matter of testing the political nervous system.

DR. LATERNSER: When you were informed of the military preparations against Poland, did you have the impression that an aggressive war was intended?

VON MANSTEIN: I was chosen for the position of chief of the General Staff of Army Group South in the mobilization plan for the Polish campaign. When I received the plans for the concentration, I realized that it was really a strategic concentration for an attack, but there were various very essential points which militated against any aggressive gesture.

The first one was that in the spring of 1939 and, by order of the Führer, a sudden start was made with the erection of the strongest fortifications along all the Eastern border. Not only thousands of workers, but entire divisions were employed there to build these fortifications, and the entire material from the Czech fortifications was transported there and built in. A broad strip of the most fertile land in Silesia was taken up by these fortifications, and that, of course, would indicate anything but an aggressive intention.

The second point which was against it was the fact that training continued on an entirely peacetime basis. I myself—I was a divisional commander in peacetime—remained with my division at the training camp in Lusatia, far away, therefore, from that part of the country where my division would have to be drawn up.

Besides, we knew of Chamberlain's speech in the House of Commons, in which he assured the Poles of Britain's assistance, and since Hitler on every occasion during the time I was in the High Command of the Army repeated the statement that he would never enter into a war on two fronts, one could not possibly think that, in view of that promise, he would indulge in such an adventurous policy.

On the other hand, however, we had the most reliable information—which was confirmed by subsequent facts—that the Poles were proposing to concentrate their troops in Poznania for an offensive towards Berlin. We completely failed to understand this gesture in view of the entire situation, but in fact that was the way the Poles drew up their troops at a later stage. The eventuality of war might well be envisaged, therefore, and it was most likely, since the Poles could look to Britain for assistance; and if the political negotiations should reach a crisis, the Poles might on their part be reckless enough to attack, since they were already forming-up offensively, and then, of course, a war would have been inevitable.

Considering all these signs, one could hardly assume that Hitler would, so to speak, pick a quarrel with Poland to unleash an aggressive war against her. The conference at Obersalzberg, for instance, on 22 August, did not give me the impression either that war was bound to come, an impression that was neither mine nor that of Commander-in-Chief Field Marshal Von Rundstedt until the night from 31 August to 1 September, since an order to march in had been withdrawn on the 25th.

THE PRESIDENT: We will adjourn now.

[The Tribunal adjourned until 10 August 1946 at 1000 hours.]

TWO HUNDREDTH DAY

Saturday, 10 August 1946

Morning Session

[The witness Von Manstein resumed the stand.]

DR. LATERNSER: Field Marshal, how did you judge the intention to attack in the West?

VON MANSTEIN: In my opinion, since a political agreement with the Western Powers by peaceful means was no longer possible, there was no other way out than to launch an offensive in the West and thus end the war.

DR. LATERNSER: Did you participate in the preparations against Norway, Greece, and Yugoslavia?

VON MANSTEIN: No. I learned about these campaigns, or that they had started, only over the radio.

DR. LATERNSER: How did you, as a military leader, regard the war against Russia?

VON MANSTEIN: I considered the war against Russia to be a preventive war on our part. In my opinion, there was for Hitler no other way out of the situation into which he had brought Germany, after he had not dared to risk the invasion of England in the autumn of 1940. In my opinion, we were forced to acknowledge that the Soviet Union was a very great threat in 1940 and 1941—a threat which would become real as soon as we finally tied up our forces in the fight against England. The only chance of extricating ourselves from that situation would have been a landing in England in the autumn of 1940, but that was a risk which Hitler did not take.

DR. LATERNSER: How is it possible that the Commander-in-Chief of the Army and the Chief of the General Staff of the Army, in the most important military decisions, such as for instance a war against the Soviet Union, were bypassed by Hitler?

VON MANSTEIN: In my opinion that can be explained as follows: Politically we generals had not had any say for a long time, because the political objections raised by the generals, for instance on the occasion of the occupation of the Rhineland and the march into Czechoslovakia, had turned out to be without substance. Hitler had carried his point. He no longer concerned himself with political objections but only with military questions.

With regard to military matters, I was personally of the opinion, as I have just said, that the offensive in the West, from the point of view of the soldier, was an imperative necessity. The High Command of the Army was of a different opinion, and in this, to my thinking, they advocated the wrong military course. There again the results proved Hitler to be right, and it became apparent from his whole behavior that after that he thought that he knew more than the soldiers, so that on the decisive questions of the fight against the Soviet Union he carried his point and would no longer listen to the High Command of the Army.

DR. LATERNSER: You received the Commissar Order, did you not?

VON MANSTEIN: Yes.

DR. LATERNSER: What attitude did you adopt with reference to that order?

VON MANSTEIN: It was the first time I found myself involved in a conflict between my soldierly conceptions and my duty to obey. Actually I ought to have obeyed, but I said to myself that as a soldier I could not possibly co-operate in a thing like that, and I told the commander of the army group under which I came at the time, as well as the commander of the armored group, that I would not carry out such an order, which was against the honor of a soldier.

In practice, the order was not carried out. My divisional commanders, who had already received the order independently from me in the Reich, shared my view and, apart from that, the commissars, as good fighters, defended themselves to the last and in many cases shot themselves before being taken prisoner, or they removed their insignia of rank and could not be identified by the troops. The troops, who inwardly disliked the order intensely, certainly did not look for commissars amongst the prisoners.

DR. LATERNSER: You have just mentioned the commander of your army group and the commander of the armored group. Who were these generals?

VON MANSTEIN: The commander of the army group was Field Marshal Von Leeb, and commanding the armored group was Generaloberst Hoeppner.

DR. LATERNSER: And what was their attitude to this order?

VON MANSTEIN: Field Marshal Von Leeb, as my superior, took cognizance of my report that I would not carry out the order, in other words, he tacitly approved. Generaloberst Hoeppner who, with another general commanding an armored group, called Reinhardt, also raised objection, promised that he would transmit the

objections to the High Command of the Army. However, he was not successful.

DR. LATERNSER: How did you reconcile your disobedience in this case with your conception of the military duty to obey?

VON MANSTEIN: In itself military obedience is, of course, unconditional, indivisible, but during wars there have always been cases where higher military leaders did not obey an order or carried it out differently. That is part of the higher responsibility which a high military leader bears. No army leader can be expected to join a battle when he knows he is bound to lose.

In these questions, that is to say, operational questions, there is in practice in the final analysis a certain right to deviate from orders given, which, however, must be confirmed by success. In the German Army particularly that independence of lower-ranking leaders has always been strongly emphasized.

The situation is quite different in the case of orders which deal with actions on the part of all soldiers. In such cases, disobedience on the part of a small man can be dealt with by means of punishment. If the higher leader, however, has disobeyed orders in such cases, then he undermines not only his own authority but discipline as a whole, and thereby endangers military success. In such cases it is more binding on the higher leader than it is on the soldier and the lower-ranking leader, because he, the higher man, should be an example.

DR. LATERNSER: Did you not undermine discipline by this disobedience of yours?

VON MANSTEIN: No, not in that case, because the troops felt the same as I did. In other words, the soldierly feelings which we had instilled into our troops opposed the political will imposed upon them by Hitler. Apart from that, we were able to refer to the order issued by the Commander-in-Chief of the Army to the effect that the maintenance of the discipline of the men should take preference over everything else.

DR. LATERNSER: How was the military jurisdiction exercised on the basis of the order from the Commander-in-Chief of the Army according to which discipline was to be strictly observed?

VON MANSTEIN: We exercised military jurisdiction as we had to do according to our training, in other words, according to right and law and as decent soldiers.

I should like to quote as an example that the first two death sentences with which I had to deal were imposed at the beginning of the Russian campaign on two German soldiers in my corps for the rape of Russian women, and it was the same everywhere.

DR. LATERNSER: Now let us turn to another chapter. What can you say about the treatment of prisoners of war?

VON MANSTEIN: With reference to the treatment of prisoners of war, as far as it came under our jurisdiction, I must say first of all that basically we as soldiers respected every brave enemy, and secondly, that we knew very well from the first World War that any maltreatment of enemy prisoners of war would finally have repercussions upon our own soldiers. As a matter of principle, therefore, we treated prisoners of war in the manner which we had been taught as soldiers, and as we were bound to do in accordance with the laws of warfare.

DR. LATERNSER: Did you yourself ever have knowledge of a violation, and did you ever take any action against wrong treatment?

VON MANSTEIN: Let me say first of all that I have seen many prisoner-of-war columns on the march. In these columns I have never seen a prisoner of war who had been shot. But on one occasion, when I was commander-in-chief of the army group, I saw a German soldier hitting a prisoner with a stick in order to clear the way for my motor car which was trying to pass the column. I at once stopped and took the man's name, and on the following day I had his commanding officer appear before me and ordered him to punish the man, and I told him personally that the next time he himself would face a court-martial if he permitted such excesses amongst his troops.

DR. LATERNSER: Can you give any explanation for the mass casualties amongst Russian prisoners of war during that first winter?

VON MANSTEIN: My army too had huge numbers of prisoners later on, up to 150,000, and it is of course always difficult to provide suddenly the necessary food and accommodation for such large numbers. As far as my army was concerned, we managed to do that. We gave permission to the population, for instance, to bring food into the camps for the prisoners and thus ease the situation.

During the large battles of encirclement in 1941 which took place within the Army Group Center and near Kiev, where the prisoners ran into many hundreds of thousands, the situation was different. When the Russian soldiers came out of the encircled areas in which they had held out to the last, they were already half-starved, and in this case, an army with its transportation space cannot possibly bring with it the means to feed 500,000 prisoners at once, and accommodate them in Central Russia. After all, the same conditions arose in Germany after the capitulation, when hundreds of thousands of soldiers spent weeks in the open and could not be fed properly either.

DR. LATERNSER: To what extent were the commanders-in-chief responsible for prisoners of war?

VON MANSTEIN: We were responsible for prisoners of war as long as they were in the area of our armies, that is to say, until they were handed over to transit camps.

DR. LATERNSER: So that was an entirely temporary state of affairs?

VON MANSTEIN: Yes, unless prisoners of war were employed in our army area.

DR. LATERNSER: In cases where the prisoners remained with the army, how were they treated?

VON MANSTEIN: Those prisoners whom we retained in our army areas were required to help in the work we had to do, and for that reason they were, of course, decently treated. After all, every division had about 1,000—sometimes more—prisoners whom we employed as so-called auxiliary volunteers, that is, voluntary helpers. These auxiliary volunteers remained faithful to us and even came along during our retreats, and that certainly would not have been the case if we had treated them badly. I should like to quote another example. When I became Commander-in-Chief of Army Group South I was accompanied only by my own personal staff and had no guard, and for about 8 or 10 days I had only Cossack guards in my house. If we had treated the prisoners badly, they would certainly have killed me.

DR. LATERNSER: Now, in regard to prisoners of war in the Reich, to whom were the camp commanders responsible?

VON MANSTEIN: As far as I know, the camp commanders within the army districts came under a general for prisoners of war, and he in turn was under the Commander of the Reserve Army.

DR. LATERNSER: Who was the Commander of the Reserve Army?

VON MANSTEIN: The Commander of the Reserve Army was, until 1944, Generaloberst Fromm, and after 20 July, it was Himmler.

DR. LATERNSER: Did not the Prisoners of War Organization come under Himmler in 1944?

VON MANSTEIN: Yes, I do not know the exact date, but I do know that all prisoners of war were expressly put under Himmler.

DR. LATERNSER: Was large-scale destruction carried out within the areas of your army or army group?

VON MANSTEIN: Yes, in the Ukraine particularly, there were very considerable destructions, but we encountered these already when we got there in 1941. All railways had been destroyed, so

that in 1943 the waterworks, for instance, were not yet working at full capacity. All communication installations and offices had been destroyed; many industrial plants had been destroyed; for instance, the large dam of Saporoshe, the cement works at Kharkov, the large iron works at Kerch and Mariupol, and the oil industry at Maikop in the Caucasus.

DR. LATERNSER: Were there any special reasons why the devastation in the last war was so great? To what must that be attributed?

VON MANSTEIN: The reason why destruction in the last war was far greater than destruction in previous wars is due to the tactics employed in this last war. In 1941 Stalin, quite rightly from his point of view, ordered his army to fight for every foot of ground. Hitler adopted the same system, and if you force armies to fight to the last for every foot of ground, the villages and the towns are bound to go up in flames and become heaps of rubble. Take, as an example, Sevastopol, which was used as a fortress for 8 months, and finally the town itself was defended. Take Stalingrad, where for weeks one house after another was fought for. Rostov and Kharkov were taken twice by our armies and twice by the Soviet armies during heavy battle. Kiev and Rovno were taken once, and Odessa was taken by the Romanian armies during a battle which lasted for weeks. It was inevitable that these towns should be half destroyed in that fighting.

DR. LATERNSER: And was there not planned destruction too?

VON MANSTEIN: In 1943, during the retreat beyond the Dnieper, I myself saw that planned destruction to a considerable extent had been carried out by order of Hitler. Hitler had ordered that the territories east of the Dnieper should be made useless for the Russians. There were several detailed orders from him to this effect.

DR. LATERNSER: Was this destruction necessary for the carrying on of the war?

VON MANSTEIN: As far as this retreat beyond the Dnieper is concerned I have to answer that question absolutely in the affirmative. The situation was such that if we could not bring the Soviet armies to a halt at the Dnieper and if they were able to continue their break-through and their advance, the war was lost. The Dnieper had not been fortified. Hitler had forbidden it when we had proposed it earlier. The work had only just begun. There were not sufficient troops to hold the Dnieper line against a heavy attack. If, therefore, the Russian attack could not be halted on account of disrupted Russian lines of supply, it could be assumed that in the autumn of 1943 the fighting in the southern part of the Eastern

Front would be decided, and the war in the East would end unfavorably for us. In such cases only the highest leaders could in the last analysis decide what would be achieved operationally by military necessity. The lower leader lacks the ability to judge; he can only see the necessities of his sector and therefore he cannot have the right to reject such decisions.

DR. LATERNSER: But these orders regarding the destruction were carried out in various ways?

VON MANSTEIN: Certainly. Probably every army leader tried to keep this destruction within as small a compass as possible, particularly in the Ukraine where we soldiers were on excellent terms with the population. That, after all, is the problem of the individual leader, whether or not he decides that his operational goal can be achieved with a minimum of destruction. It was different, for instance, when it came to the destruction of billets. In the East in winter fighting depended to a very considerable extent on whether the troops could find some kind of shelter for the night. In the winter the destruction of billets could be absolutely decisive. In the summer, of course, it was not important.

DR. LATERNSER: What do you know about the destruction of churches and cultural monuments?

VON MANSTEIN: I can only say that in my areas cultural monuments were spared. A large number of these—in the Crimea, on the southern coast, for instance—were already destroyed when we arrived, but we carefully preserved the Livardia palace, for example, and then the Tartar castle in Baktshisarai. I was once before Leningrad with my army command preparing an attack, which, however, was not carried out. There I saw several Czarist palaces, Oranienbaum and others. They were destroyed, but they were within the range of Russian artillery, and I myself was under artillery fire while making this visit. The palaces were burned out, and they were certainly not burned by our troops according to plan.

DR. LATERNSER: Now, a few questions with reference to the partisan warfare. Did you get to know that the aim of partisan warfare was to exterminate the Jews and Slavs?

VON MANSTEIN: No.

DR. LATERNSER: Did you give or receive any orders to the effect that no prisoners were to be taken during partisan fighting?

VON MANSTEIN: No.

DR. LATERNSER: At that time what did you imagine would happen when a person was handed over to the SD?

VON MANSTEIN: It was our impression that first of all the SD would interrogate such a person and then probably send him to some camp. We also had to turn over to the SD German soldiers

who were sentenced for desertion, because during the war there was a regulation that long terms of imprisonment were not to be served, but that—in order to utilize their working capacity and prevent them from evading the war behind prison walls—these prisoners, and others who had been sentenced, should be sent to concentration camps for the duration of the war. Therefore, to say that the turning over of any person to the SD was equivalent to death was, as we saw it, quite wrong.

DR. LATERNSER: Did you at that time know anything about conditions in the concentration camps?

VON MANSTEIN: No. I heard as little about that as the German people, or possibly even less, because when one was fighting 1,000 kilometers away from Germany, one naturally did not hear about such things. I knew from prewar days that there were two concentration camps, Oranienburg and Dachau, and an officer who at the invitation of the SS had visited such a camp told me that it was simply a typical collection of criminals, besides some political prisoners who, according to what he had seen, were being treated severely but correctly.

DR. LATERNSER: As a soldier of the old tradition, how do you explain the shootings with which the Prosecution has charged the German war leaders as a crime against humanity?

VON MANSTEIN: Beginning in 1941 with the Soviet campaign, this last war was, one might say, fought from two points of view. The first was the military conduct of the war which we, the soldiers, were carrying through, and the other was—incidentally, on both sides—the ideological conduct of the war which we soldiers were not carrying out, but which was determined by other factors.

DR. LATERNSER: You said 1941?

VON MANSTEIN: Yes, it is my view that the Polish war and the war in the West and the campaigns in Norway and in the Balkans were still carried out in a purely military manner as long as the fighting was going on. The other side, that is, the ideological side of the war, started, in my opinion, with the campaign against the Soviet Union, and it was then extended to the other occupied territories by those who conducted this type of war.

DR. LATERNSER: But then, who was conducting the ideological fight on the part of Germany?

VON MANSTEIN: We soldiers did not wage this ideological war. In my opinion it was waged by Hitler together with some of his closest collaborators, and a limited number of accomplices.

DR. LATERNSER: In what way was this war not conducted by soldiers?

VON MANSTEIN: As I have said, Hitler knew perfectly well that we, with our traditional gallant conception of warfare, would not do things like that. He defined this view very clearly in the speech he made before the Western campaign, that is, after the Polish campaign, and on the basis of this point of view, in my opinion, he knowingly kept the Armed Forces out of the ideological war, and knowingly removed everything that was done from our influence or even from our knowledge.

DR. LATERNSER: By what means did Hitler remove this angle of the war from military influence?

VON MANSTEIN: He took it away from us first of all geographically, inasmuch as most of the occupied territories were removed from the influence of the commanders-in-chief; that is, he set up Reich Commissariats in the East and in the remaining countries, the spheres of the military commanders or rather national governments which were not under us commanders-in-chief. Apart from that he also took away from us the terrain in which this struggle was being fought. Geographically we were limited to the narrow operational areas, and administratively we also had very little to say with regard to them. All Police measures were taken by Himmler on his own responsibility, as set out in the well-known "Barbarossa Order." The economic exploitation was Göring's province. Sauckel was responsible for the recruitment of labor. The examination and registration of art treasures were handled by the special staff of Rosenberg. Jurisdiction over civilians had been expressly withdrawn from our military courts. In other words, all that was left to us was the directing of the fighting at the front, the security of the operational sector, the creation of a local administration, and the setting in motion of agriculture and industry.

DR. LATERNSER: Mr. President, I have had prepared a sketch regarding the division of powers, and I should like to submit it to the Tribunal when I put in my documents. It is Sketch General Staff and OKW Number 3. I should merely like to show this sketch to the witness and ask him whether the sketch is accurate, and later on I shall submit the sketch to the Tribunal with an explanation.

THE PRESIDENT: Yes, certainly.

DR. LATERNSER: Field Marshal, I am going to have Sketch General Staff and OKW Number 3 handed to you and I will ask you whether that sketch is accurate.

THE PRESIDENT: Dr. Laternser, you are showing it to the Prosecution, no doubt?

DR. LATERNSER: Yes, Sir.

VON MANSTEIN: In my opinion, this sketch is correct. Naturally, details regarding the organization in the occupied territories,

for instance, which came under military commanders and which changed in the course of the war, are not all indicated.

DR. LATERNSER: But these spheres do not concern the persons accused?

VON MANSTEIN: Yes, that is right.

DR. LATERNSER: In which spheres was the ideological warfare waged by the others?

VON MANSTEIN: There you have to differentiate between two things: Apart from the military conduct of the war carried on by us, the soldiers, war was also waged economically; that is to say, for the economic exploitation of occupied territories for our warfare in the sense of the slogan "total war." That, in my opinion, was an innovation in international law, but it was not a crime. The second is the ideological field; that is, the special methods introduced against the population and carried out by other forces, which had nothing to do with the economic exploitation as such.

DR. LATERNSER: What do you mean by special methods?

VON MANSTEIN: By that I mean the methods of the so-called Einsatzgruppen and all the methods applied under the aegis of Himmler.

DR. LATERNSER: Were not the Commissar and Commando Orders part of that ideological fight in the military sector?

VON MANSTEIN: In my opinion the Commissar Order does come under that heading; that is the reason why we did not carry it out. But in my view, the Commando Order did not. The Commando Order was a reprisal, possibly open to argument, against a method of warfare which was new.

DR. LATERNSER: Now, let us come to the Einsatzgruppen. What did you know about the tasks given to these groups?

VON MANSTEIN: All I knew about the tasks of these Einsatzgruppen was that they were organized to prepare for the political administration; that is to say, to carry out the political screening of the population in the occupied territories of the East, and they were acting on special instructions under Himmler's responsibility.

DR. LATERNSER: Did you ever hear of the intention and the order to exterminate Jews and other sections of the population?

VON MANSTEIN: No, I never heard of that; in fact, as the witness Ohlendorf said, this order was given orally by Himmler directly to the Einsatzgruppen.

DR. LATERNSER: When you took over the command of the 11th Army, were you informed of the existence of the Einsatzgruppen?

VON MANSTEIN: When I took over the army at Nikolaiev in September 1941, I was at the army headquarters for 2 or 3 days only, and I then occupied an advance battle headquarters near the front with a small part of my staff. During these 2 or 3 days I spent at Nikolaiev, the various department chiefs of the High Command reported to me on their tasks. I assume that on that occasion it was also reported to me that sections of the SD with special tasks from Himmler were in the operational zone, but at that time I had no idea of the organization and tasks of the Einsatzgruppen, as I know them today.

DR. LATERNSER: Did you personally have dealings with Ohlendorf?

VON MANSTEIN: It may be that Ohlendorf reported to me once, and as such reports were usually made towards noon, it is quite possible that I invited him to lunch. If he did visit me, then it was certainly only in the presence of my chief of staff, because anyone who did not belong to my army was only received by me in the presence of my chief of staff. I should like to add that I had already spent several weeks in prison here when one day General Westphal told me: "There is an SD Führer Ohlendorf here, who maintains that he was in the Crimea." I asked Westphal to point him out to me, and I said: "I may have seen him once, but I do not know, or do not remember him." That is the only kind of contact I might have had with him.

DR. LATERNSER: The witness Ohlendorf has said that during the march he had talked with you and your chief of staff.

VON MANSTEIN: He could not have spoken to me during the march because a commander-in-chief does not march with his troops. When I changed my battle headquarters, I either went by plane or traveled by car with an orderly officer, and in that case I was not accompanied by my chief of staff, because in the event of such a change the chief of staff always remains in the old battle headquarters until the commander-in-chief has reached the new one, so that the directing of the army is not interrupted. Therefore it is quite out of the question that Ohlendorf could have spoken to me during the march.

DR. LATERNSER: Field Marshal, how do you explain the fact that the murder of 90,000 Jews could have escaped your attention?

VON MANSTEIN: These 90,000 Jews who were mentioned were not murdered in my zone of command. As Ohlendorf has stated, his zone reached from Cernauti, that is, from the Carpathians, to Rostov; that is approximately 1,200 kilometers long and probably from 300 to 400 kilometers broad. In this huge zone not only the 11th Army was operating, but also the 1st Armored Army, and

the 3d and 4th Romanian Armies, that is to say, four armies; and these 90,000 persons who are supposed to have been murdered in the course of a year are therefore distributed over a large area, of which only a small portion was occupied by the 11th Army in the Crimea.

DR. LATERNSER: But could you have helped hearing about it if in the Crimea, for instance, several hundred Jews were murdered?

VON MANSTEIN: No, not necessarily. In that year I occupied, I think, 12 or 13 different battle headquarters, always in the fighting zone. When I was at my headquarters at Sarabus—it was a small village about 20 kilometers from the capital—only tactical reports reached me and not more than once or twice a week—or it may have been three or four times—the chief quartermaster and the army surgeon and other people like that came to see me in order to report to me on essential matters. One must also bear in mind that in our situation a commander-in-chief was completely occupied by the worries of the battle and that, quite rightly, only the essential points of other matters were reported to him. Point two is that our troops, almost down to the last man, in the Crimea particularly, were being used in the battle at the front, and even our clerks sometimes had to be sent into battle. The entire rear area was more or less devoid of troops and only the most important supply points were manned; everything that happened outside these few points never reached the ears of the military agencies.

DR. LATERNSER: Did you never receive a report on the shooting of Jews?

VON MANSTEIN: I did not receive a report on the shooting of Jews. I once heard of a rumor.

DR. LATERNSER: And what was it about?

VON MANSTEIN: When I took over the army, which, as I said, was on the day I left Nikolaiev for my battle headquarters, it was said, without details being given, that earlier, before my time, the SS had allegedly shot and killed a few Jews, I believe it was in Bessarabia. That was a rumor about one individual case. As I was leaving the following morning, I gave orders to my orderly officer that the leader of the SS was to be told that in the area where I was commander-in-chief I would not tolerate any such bestiality. Since it was only a rumor, and as an order of mine to investigate the truth of the matter did not produce any witnesses who had seen it, the question was therewith settled. I immediately entered into the heaviest fighting and since then I received no further reports about the shooting of Jews.

DR. LATERNSER: But the witness Ohlendorf talked about the shooting of Jews in which members of the Armed Forces were

supposed to have participated. Your headquarters was at Simferopol, was it not?

VON MANSTEIN: No. Only the chief quartermaster department was in Simferopol. I myself was with the command department about 20 kilometers away from Simferopol. That units of my army could have participated in the shooting of Jews, I consider quite out of the question. Ohlendorf moreover also spoke of army auxiliaries, that is, Police or OT (Todt Organization), or whatever it may have been. If a unit or officer of my army had participated in anything like that, it would have meant his end.

DR. LATERNSER: The army was supposed to have received watches from the SD, which were taken from Jews who had been murdered?

VON MANSTEIN: That I do not know. The army quartermaster visited me once and reported that he had obtained a large number of watches for the army from Germany. He also showed me a watch which was fresh from the factory, a German watch.

DR. LATERNSER: What was the chain of command for Einsatzgruppen?

VON MANSTEIN: In the chain of command, particularly the military one, one must differentiate between the practical subordination, which is the chain of command for the fighting at the front, and the economic subordination, that is the chain of command for the purpose of supplies, food, motor fuel, and billets. Thirdly, subordination for military service, that is from the point of view of training, equipment, questions of personnel, and of disciplinary and legal nature. In no case was the last-mentioned military service subordination ever granted to us, not even for the units of the Waffen-SS. Economically and tactically, that is for the actual fighting, such subordination was possible. Economically, that is, on the march and with regard to accommodation and supplies, the SD was subordinate to us. The factual subordination, of which the witness Schellenberg once spoke, did not exist at all. It only existed in the case of medical officers; for instance, where a doctor of a lower rank ranged professionally under the division doctor. But we had no special Police functions and there was no question of the SD being subordinate to us in its Police tasks. As far as the chain of command for troops on the march and supplies was concerned, they were matters which the chief quartermaster dealt with. A commander-in-chief is never bothered with very small units on the march.

DR. LATERNSER: Ohlendorf has mentioned an order from the High Command of the Army according to which the shooting of Jews was to take place only at two and a half, or according to

his other testimony, 200 kilometers from the army headquarters. Is that correct?

VON MANSTEIN: No, and such an order would be sheer nonsense. What would be the sense of a distance of two and a half kilometers from army headquarters? And 200 kilometers would have been already beyond the operational zone. At such a distance we had no right to give orders. Such an order was certainly not given by my office—at least, I never gave it.

DR. LATERNSER: Did you co-operate with the Einsatzgruppen when you were with the Armored Group Hoeppner?

VON MANSTEIN: I was Commanding General of the First Armored Corps of the Armored Group Hoeppner. I do not remember ever having seen the SD there. During the first months of the Russian campaign I was sometimes 100 kilometers in advance of the front with the armored corps. Between myself and the German infantry armies which followed there were the retreating Russian armies. In a case like that where the Russians were following us so closely, it is completely out of the question that the SD would undertake the shooting of Jews in my sector. They would never have risked doing that. And as I have said, when I came to the front I saw no SD people.

DR. LATERNSER: Did you know Generaloberst Hoeppner?

VON MANSTEIN: Yes, of course.

DR. LATERNSER: What was his attitude in regard to such deeds of violence?

VON MANSTEIN: Hoeppner was a decent, straightforward, and honest soldier. I consider it absolutely out of the question that he could have co-operated in such matters. Apart from that, his death following the 20th of July shows he was not on the side of these people.

DR. LATERNSER: Was there any tactical collaboration with the Einsatzgruppen on the part of the 11th Army?

VON MANSTEIN: Yes. From the SS, SD, or the Police, as far as I remember, we got a number of auxiliaries for combating the partisans. In the Jaila mountains of the Crimea there were at that time small inaccessible parts of the mountains where there were partisans. We could not get at them because we had no mountain troops. All we could do was to try to starve out these bands by preventing them from raiding Tartar villages and thereby maintaining their food supplies. For that reason we armed the Tartars and in order to make sure that these villages were reliable in our sense, the SD assisted us.

THE PRESIDENT: This is going into the matter in great detail. Has it not been gone into in his evidence before the Commission? Can't you shorten it?

DR. LATERNSER: Yes, Mr. President. This brings me to my last question and, as far as I can recollect, that question was not put when the witness was before the Commission.

VON MANSTEIN: They also worked with us to discover the food depots of the partisans. We had to do this because German forces were not available and only Romanian mountain troops were occupied with these tasks.

DR. LATERNSER: Did it ever happen that sections of the SS, SD, or Einsatzgruppen participated in this partisan fighting and then were decorated for these deeds?

VON MANSTEIN: That is quite possible, but then they were decorated for action in battle, not for the killing of Jews.

DR. LATERNSER: Now, let us come to another point. The Armed Forces have also been accused of looting in the occupied territories.

VON MANSTEIN: We had the strictest orders in the Army against looting, and rigorous action was taken against looters. The individual soldier was not allowed to requisition, but only troop units, and then only what the unit needed for the feeding of the troops within the ration allotments. On the other hand in 1943 we co-operated in bringing back goods which were especially needed by us for carrying on the war. But by an express order of mine that was limited in the Ukraine to grain, oilseeds, some small quantity of metal, and a small number of cattle which could be driven along with us. However, all this was not looting private property; it was a State requisitioning of State property.

DR. LATERNSER: Were factories dismantled by the Armed Forces?

VON MANSTEIN: The dismantling of factories, if it took place, was done on orders from the Economic Staff East, because the exploitation of industry in the occupied territories, even in the operational area, did not come under the command of the armies, but under the Economic Staff East.

DR. LATERNSER: To what extent were the military leaders concerned with the deportation of workers?

VON MANSTEIN: We merely had instructions to support the requisitioning of labor by the Reich Plenipotentiary. In general we resisted having to give up labor because we needed it ourselves for agriculture in the occupied territories. When, during conversations with Sauckel, I told him that methods of coercion

would make the population hostile, he said that he himself was against the use of force. I received a report that people had allegedly been rounded up by force in the Reich Commissariat. When I made inquiries, Reich Commissioner Koch told me that it was not true, that he had heard these rumors himself and had looked into the matter and found that it was all lies. I had no evidence to counter this. At any rate we limited ourselves to recruiting, and moreover, the Reich Plenipotentiary presented a regulation to me according to which foreign workers in Germany were to be treated and fed in the same way as German workers.

DR. LATERNSER: You mentioned Sauckel and Koch in this connection. Were these separate conversations, or were they both held together?

VON MANSTEIN: No, in my opinion they were different conferences. Koch once visited me with Rosenberg, and on that occasion I mentioned that I had heard of these methods of force. He denied it; but Sauckel was not present.

DR. LATERNSER: And then on another occasion Sauckel visited you alone?

VON MANSTEIN: Yes.

THE PRESIDENT: The conversation that occurred with Rosenberg, when did it occur?

VON MANSTEIN: That I cannot remember exactly.

THE PRESIDENT: Not the exact date; approximately?

VON MANSTEIN: It was in 1943. Rosenberg and Koch came to visit me. It must have been, I should think, in September or October, but try as I may I cannot give the exact date. It may have been earlier.

DR. LATERNSER: Field Marshal, why did you, as a high military leader, tolerate all these violations of international law and laws of humanity?

VON MANSTEIN: In my province, in my military province, I did not tolerate such things, and whatever happened in the ideological struggle outside of my sphere, we did not get to know about. It was taking place outside our sphere of influence and knowledge, and we had neither the power nor the right to prevent it, apart from the fact that we never knew of all the abominations which have since been disclosed.

DR. LATERNSER: Were you of the opinion that for reasons of military obedience you had to tolerate everything, or rather co-operate in everything?

VON MANSTEIN: The military duty to obey is without doubt binding and indivisible. The right or the duty to disobey I would

say does not exist for the soldier. There may be a moral duty which would apply, for instance, in such cases as the execution of Jews. But we knew nothing about that.

DR. LATERNSER: In the case of the Commissar Order, if all the commanders-in-chief had refused, would it not have caused Hitler to amend it?

VON MANSTEIN: He would certainly not have done that. On the contrary, it would perhaps have been a desirable opportunity for him and some others to remove us. Apart from that, a flat refusal to obey in order to coerce a dictator, is an entirely useless method. Under a dictatorship, a dictator cannot permit himself to be forced, because the moment he gives way, his dictatorship ends.

DR. LATERNSER: Was it not possible to make him go back on his decisions by counterpropositions?

VON MANSTEIN: Here one must differentiate between two things; with regard to basic political decisions, the decisions for war, *et cetera,* we certainly had no possibility whatsoever. He announced his decision in the speeches or by means of orders, and no protest was possible.

THE PRESIDENT: The witness has been over this subject already.

DR. LATERNSER: Did you have any military influence on Hitler?

VON MANSTEIN: In questions of purely military leadership, he listened to me in certain respects. Indeed, on this question I had constant arguments with him. My written suggestions to him, or to the chief of General Staff for submission to Hitler, would fill a large volume. In decisive points of purely operational leadership I probably succeeded, generally speaking, in carrying my point. In other cases, as soon as we left the subject of military command, he cut short any discussion. On three occasions, however, I tried, in personal talks with him, to get him to alter the supreme military command, that is, in plain language, to surrender the supreme command, if not in name, at least in fact.

THE PRESIDENT: What have we got to do with this? What have we got to do with these matters which are matters of strategy? The High Command is not being accused of anything in connection with strategy.

DR. LATERNSER: Do you know, Field Marshal, whether other military leaders, too, had differences with Hitler?

VON MANSTEIN: These differences were, no doubt, very numerous. That becomes apparent from the following facts alone:

Of 17 Field Marshals who were members of the Army, 10 were sent home during the war and 3 lost their lives as a result of 20 July. Only one Field Marshal managed to get through the war and keep his position as Field Marshal.

Of 36 Generalobersten, 18 were sent home and 5 died as a result of 20 July or were dishonorably discharged. Only 3 Generalobersten survived the war in their positions.

DR. LATERNSER: Out of 36?

VON MANSTEIN: Yes, out of 36. I believe there is no profession which can show so many who suffered for their convictions, for all these leaders were highly qualified officers, militarily speaking. They could not have been sent away because they were incapable. They were sent away because Hitler distrusted them, and also because he did not think they were severe enough in operational strategy.

DR. LATERNSER: Did the circle of men concerned with the 20 July incident get in touch with you? The witness Gisevius has said something about that.

VON MANSTEIN: I did not realize that at the time. I once received a letter from Generaloberst Beck. It was in the winter of 1942, and he discussed the strategical situation on the basis of the experience at Stalingrad. He said that it was hardly likely that the war would come to a good end. I replied to him that I could not contradict his statement, but that one defeat was no reason to consider the war lost, and that a war was only lost if you yourself considered it lost. I went on to say that I had so many worries on my front that I could not begin a lengthy discussion about these matters.

Now, afterwards, it has become clear to me that several other attempts to contact me were made, apparently in order to sound me out. On one occasion, General Von Gersdorff visited me and, as he told me afterwards, he had letters on him from Goerdeler, I believe, and Popitz, which he was supposed to show to me if he got the impression that I could be enlisted for a *coup d'état*. As it was always my point of view, however, that the removal or the assassination of Hitler during the war would lead to chaos, he never showed me these letters. That these were supposed to be feelers is something which became clear to me only afterwards. I had never, therefore, made a promise to anyone to participate in such affairs.

DR. LATERNSER: Did you receive any personal gifts?

VON MANSTEIN: No, I did not.

DR. LATERNSER: When and for what reason were you relieved of your post?

VON MANSTEIN: I was relieved of my post at the end of March 1944. The reason given to me by Hitler was that large-scale operations for which he needed me could no longer be carried out and that it was merely a question now of holding out stubbornly and for that a new man would have to be put in my position. I never believed that this was the true reason. The true reason was without doubt that he mistrusted me too. After all, he was the revolutionary and I was the old Prussian officer. Then too, as the chief of the General Staff, General Zeitzler, told me at the time, there was a continuous campaign of hatred against me on the part of Himmler, and all manner of statements were made, namely, that a Christian like myself could not be loyal; and it is certain, too, that other elements joined in this campaign.

DR. LATERNSER: I shall now come to my last question, Field Marshal. What can you say to the accusation by the Prosecution that the military leadership should be declared criminal?

VON MANSTEIN: I have been a soldier for 40 years. I come from a family of soldiers and I have grown up with military conceptions.

The example from among my nearest relatives which I had before me was Hindenburg. We young officers naturally considered the glory of war as something great, and I do not wish to deny that I was proud when during this war an army was entrusted to me. But our ideal, and that applies to my comrades too, did not lie in the conduct of war, but in the education of our youth to be honorable men and decent soldiers. Under our orders these youths went to their death by the million.

And if I may say something personal: My eldest son died as a lieutenant in the infantry, when he was 19; two of my brothers-in-law, who grew up in my house, died as young officers; my best comrades in this war, my young adjutant and my young chauffeur, were killed. Nearly all the sons of my brothers and sisters were killed. That we, the old soldiers, should have led into war for a criminal purpose that youth of ours which was so dear to us, would far exceed any wickedness of which man could be thought capable. It is possible that a man without a family and without tradition, who is obsessed with fanatical belief in a higher mission, may go beyond the limits of human law, but we, the old soldiers, purely from a human point of view, would not have been able to do so. We could not lead our youth into crime.

DR. LATERNSER: I have no further questions, Mr. President.

[A recess was taken.]

DR. GAWLIK (Counsel for the SD): Witness, you have repeatedly mentioned the SD. What is your conception of the SD?

VON MANSTEIN: What I understand by the SD is an institution within the framework of the SS, which came under Himmler and had special Police tasks.

DR. GAWLIK: Then if I now tell you that here the Departments III and IV of the Reich Security Main Office are being indicted under SD, then, I ask you, did you understand that those organizations came under SD?

VON MANSTEIN: The conception of the SD is only known to me as it was probably known to most Germans, that is to say, as some sort of special Police. I do not know what departments in the Reich Security Main Office belonged to it, because the organization and tasks of the Reich Security Main Office are unknown to me.

DR. GAWLIK: Then as a former commander-in-chief you do not know either which departments in the Reich Security Main Office dealt with Police tasks?

VON MANSTEIN: No, I have no idea of that, nor did it ever interest me.

DR. GAWLIK: Can you answer the question with "yes" or "no," whether by SD you meant Departments III and IV?

VON MANSTEIN: No.

DR. GAWLIK: Your defense counsel and you yourself have talked here about the Einsatzgruppen of the SD. Was that designation correct, or what were these Einsatzgruppen called?

VON MANSTEIN: The name Einsatzgruppen was made clear to me only here. Previously, during the time I was a commander-in-chief, I only knew that Higher SS and Police Leaders existed, and that sections of the SD had been given the special task of screening the population. Let me say, therefore, that the conception of the term Einsatzgruppen as it presents itself now, only became perfectly clear to me here.

DR. GAWLIK: But as a former commander-in-chief you must have known the correct designation of these Einsatzgruppen.

VON MANSTEIN: It may be that I already knew the name Einsatzgruppe. But I never thought of it as anything special. I merely considered it to be a part of the SD, which was under Himmler, and which had been given special tasks.

DR. GAWLIK: Did you not know that these Einsatzgruppen were called Einsatzgruppen A, B, C, and D?

VON MANSTEIN: No. I had never heard of Einsatzgruppen A, B, or C, and whether the Einsatzgruppe which worked in my territory was called "D" or not, I cannot say today. It may be or it may not be. I just do not know.

DR. GAWLIK: You did not know either what title Ohlendorf had?

VON MANSTEIN: Ohlendorf? I cannot tell you whether he was an SS Gruppenführer or SS Oberführer.

DR. GAWLIK: No, I do not mean that. I mean what title he had as the leader of Einsatzgruppe D.

VON MANSTEIN: No, I do not know that even today.

DR. GAWLIK: Did you not know that his title was Deputy to the Chief of the Security Police and of the SD with Army Group D?

VON MANSTEIN: No, I did not know that, because an Army Group D did not exist at the time, as far as I know.

DR. GAWLIK: Or that this was his title in the armies?

VON MANSTEIN: No, I did not know that.

DR. GAWLIK: Thank you.

COL. TAYLOR: Witness, did you leave the General Staff of the OKH in February of 1938?

VON MANSTEIN: May I ask you to repeat the question? I am afraid I did not understand.

COL. TAYLOR: Did you leave the General Staff of the OKH in February 1938?

VON MANSTEIN: Whether I was a member of the OKH? Yes.

COL. TAYLOR: What was your rank when you left the OKH General Staff in 1938?

VON MANSTEIN: I was a major general.

COL. TAYLOR: That is the lowest grade of general in the German Army, is it not?

VON MANSTEIN: Yes.

COL. TAYLOR: And after you left the General Staff of the OKH, you became a divisional commander?

VON MANSTEIN: Yes.

COL. TAYLOR: And you were a divisional commander at the time of the occupation of the Sudetenland, were you not?

VON MANSTEIN: Yes. My position in the service at that time was divisional commander, but when the Sudetenland was occupied, I was temporarily chief of the General Staff of that army which marched in from Bavaria.

COL. TAYLOR: And you were still a divisional commander when the rest of Czechoslovakia was occupied, were you not?

VON MANSTEIN: Yes, indeed.

COL. TAYLOR: And you were still a divisional commander while the attack upon Poland was being planned?

VON MANSTEIN: Yes.

COL. TAYLOR: Where was your division situated?

VON MANSTEIN: My division was in Lower Silesia and the division headquarters was in Liegnitz.

COL. TAYLOR: So that you personally were not very close to the OKH planning from February 1938 until the outbreak of the war?

VON MANSTEIN: No; I was in the High Command of the Army only up to the Anschluss in Austria, because I had to remain in the High Command of the Army for a time in order to hand over the affairs to my successor, General Halder.

COL. TAYLOR: Now, you were engaged in the war against the Soviet Union from the very beginning, were you not, beginning in June 1941?

VON MANSTEIN: Yes.

COL. TAYLOR: And did you take command of the German 11th Army after the death of General Von Schobert?

VON MANSTEIN: Yes.

COL. TAYLOR: And that was about the middle of September of 1941?

VON MANSTEIN: I believe I took over the command on 21 or 22 September.

COL. TAYLOR: And during 1941 and the first part of 1942 the 11th Army which you commanded was fighting at the extreme southern end of the front, was it not?

VON MANSTEIN: Yes.

COL. TAYLOR: That is in the region north of the Black Sea?

VON MANSTEIN: Yes.

COL. TAYLOR: And the 11th Army had captured Nikolaievsk just before you took command?

VON MANSTEIN: Yes.

COL. TAYLOR: And your headquarters, when you took command, were at Nikolaievsk?

VON MANSTEIN: Yes.

COL. TAYLOR: Now, is it true that you have just been testifying that Hitler had some very particular ideas concerning the methods by which warfare on the Eastern Front should be carried out?

VON MANSTEIN: Yes.

COL. TAYLOR: Hitler thought that the occupied Russian territories could best be subdued and pacified by the widespread use of terror, did he not?

VON MANSTEIN: At the time that was by no means clear to me. It was only during the Trial that I learned that.

COL. TAYLOR: Did you not receive an order from the OKW that terroristic means were to be used to keep order in the occupied territories?

VON MANSTEIN: No, I could not, in my opinion, receive any order from the OKW for my army. And I have no recollection of an order to use terroristic methods, either.

COL. TAYLOR: An order issued by the OKW could reach you through proper channels through the OKH, could it not?

VON MANSTEIN: Yes.

COL. TAYLOR: Will you please look at the document which is being handed to you?

Your Lordship, that will be 459-PS, and the exhibit number will be USA-926.

[Turning to the witness.] You will see from the heading on the document that it was issued by the OKW on 23 July 1941.

VON MANSTEIN: Yes. But that, in my opinion, is a decision of the OKW, because the heading says, "The Chief of the High Command of the Armed Forces." That is the OKW.

COL. TAYLOR: Yes, I stated that. This is a document issued by the OKW.

DR. LATERNSER: I beg to apologize, but I shall have to interrupt here. I ask that a German copy be submitted to the witness. I gathered from his reply that he is quoting the English text.

COL. TAYLOR: The witness has a German copy, I am told.

PRESIDENT: Have you got a German copy?

VON MANSTEIN: Yes. A German copy is underneath.

COL. TAYLOR: I would like to read this document to you and ask you a question about it.

"On 22 July, the Führer, after receiving the C.-in-C. of the Army, issued the following orders with a view to supplementing and enlarging Directive Number 33 ... ."

And now, Witness, will you turn to Paragraph 6, please, the last paragraph, Paragraph 6? Do you find it?

VON MANSTEIN: Yes.

COL. TAYLOR:

"In view of the vast size of the conquered territories in the East, the forces available for establishing security in these areas will be sufficient only if instead of punishing resistance by sentencing the guilty in a court of law, the occupying forces spread such terror as is likely, by its mere existence, to crush every will to resist amongst the population.

"The commanders concerned, together with all available troops, should be made responsible for maintaining peace within their areas. The commanders must find the means of keeping order within their areas, not by demanding more security forces, but by applying suitable drastic measures."

Signed by the Defendant Keitel.

Did such an order never reach you, Witness?

VON MANSTEIN: I cannot remember the order. After all, it was issued long before I became commander-in-chief and naturally not every order that was issued before I became commander was submitted to me. At any rate, I cannot recollect it.

COL. TAYLOR: At the time this order was issued, you were a corps commander, weren't you?

VON MANSTEIN: Yes.

COL. TAYLOR: Isn't it plain on the face of this order that it could only be carried out by wide distribution to troops and the leaders of all the formations?

VON MANSTEIN: No, not necessarily. After all, the order contains directives for the Southeastern Front, the Central Eastern Front, the Northeastern Front, the Navy, and the Air Force, and also for security in the rear areas of the conquered territory. At that time I was a long way from the front with my armored corps; actually, in July I was west of lake Ilmen, where I was cut off and surrounded for a time. It is quite impossible that an order would be sent to me concerning the entire front; if it was done at all then I would have received only an extract referring to my area. But here the orders under Figure 6 are concerned with the security of the rear areas, and the armored corps which was far ahead of the front line of the infantry army had nothing to do with these matters.

COL. TAYLOR: The order plainly is meant to apply generally over the entire front, isn't it?

VON MANSTEIN: Yes, Number 6 naturally applies to the entire front. But an armored corps which is ahead of the front and which is continuously engaged in battle with enemy forces has nothing to do with these measures; and even if the order had been dispatched to me, it does not by any means signify that it would have reached me. As a matter of fact I just remember that in July when I was cut off, a very considerable portion of our baggage-train from headquarters, including very important documents, fell into enemy hands. Therefore, try as I may, I cannot remember having received this order. In fact, I do not believe it was dispatched to the corps at all.

COL. TAYLOR: If an army commander received this order, he could only carry it out by distributing it down to his lower formations; isn't that right? That's the only way he could carry it out?

VON MANSTEIN: He did not necessarily have to distribute it, because Figure 6 mentioned conquered territories, that is to say, rear areas; and the armored group which I came under, which had only two armored corps in the foremost front line, would not necessarily need to transmit this order to the corps because the group itself had to secure its small rear area without the two corps, and in fact it did so.

COL. TAYLOR: So assuming you were cut off at the time and never got this order at the time it was issued, didn't any of your fellow generals in the other areas in the Prussian military tradition ever speak to you about this order and indicate they had received it?

VON MANSTEIN: Not one of them discussed the order with me. Only very rarely can a commander-in-chief talk to other commanders-in-chief. Whether they received the order, that I really could not tell you.

COL. TAYLOR: We'll pass from that document. Now, Hitler regarded the war on the Eastern Front as ideological war and race conquest, didn't he?

VON MANSTEIN: Yes.

COL. TAYLOR: And he wanted not only to conquer the Soviet Army but also to wipe out the Soviet political system, isn't that true?

VON MANSTEIN: No doubt he wanted the production system of the Soviet Union in the occupied territories to be used for the conduct of our war.

COL. TAYLOR: And he wanted to set up a new political system in the areas which the Army had captured?

VON MANSTEIN: I do not understand what you mean by "a new system." What are you referring to?

COL. TAYLOR: A political system of political administration.

VON MANSTEIN: Naturally, the occupied territories must have some sort of an administration.

COL. TAYLOR: He wanted an administration which would be very different from the type of administration under the Soviet Government, didn't he?

VON MANSTEIN: Yes, since the National Socialist system was different from the Soviet system in certain respects, it was necessary for him to attempt to establish the administration accordingly.

COL. TAYLOR: Now, in order to set up a new political administration, an administration that would operate peaceably so that the territory could be exploited, Hitler was very anxious to stamp out those parts of the population—those elements in the population—who would oppose his aims, wasn't he?

VON MANSTEIN: I do not know whether that was clear from the start. At any rate, he never told the military leaders of the plan.

COL. TAYLOR: In order to help in carrying out these plans, didn't the OKW issue several orders to the commanding generals that were quite extraordinary? I refer among other things to the Commissar Order that you have mentioned.

VON MANSTEIN: The Commissar Order, after all, only affected the removal of those Soviet elements who, shall we say, were supposed to carry the war beyond the military into the ideological sphere and to urge their troops to fight to the death. That has nothing to do with the extermination of portions of the population; at the most, it was the removal of a certain class of followers of the enemy forces who were considered to be more politicians than soldiers.

COL. TAYLOR: I refer also to Hitler's well-known order of 13 May 1941, which restricted the use of courts-martial in cases where German soldiers had committed crimes against the civilian population. Wasn't that part of this same plan?

VON MANSTEIN: Certainly if such a plan did exist, then it was part of this plan. But we did not follow that plan. As I said, by order of the Commander-in-Chief of the Army we employed our legal system in order to punish the excesses in the interest of discipline. I have already mentioned to you the example of the two death sentences in my corps.

COL. TAYLOR: Well, in fact, Witness, were not these views of Hitler and the purpose of these orders very well known to you and the other commanding generals on the Eastern Front?

VON MANSTEIN: No, we did not know that this order had a further purpose, for instance, the purpose of exterminating people. In fact, that thought never struck us at the time.

COL. TAYLOR: Well, now, what elements in the Russian population did the Germans think would be most likely to oppose their economic and political aims in occupied territory?

VON MANSTEIN: I did not worry about that at the time, as I had nothing to do with the economic plans in the occupied territories, nor with the political plans from which we were excluded. I can only say that we soldiers had the one thought of keeping the population in occupied territories quiet by treating them reasonably, and our considerations did not go beyond that.

COL. TAYLOR: Whether you worried about it or not, didn't you know who Hitler and the other political leaders thought were the elements in the Soviet population most likely to be obstructive? I'm asking you, didn't you know?

VON MANSTEIN: Naturally he considered the political commissars to be harmful and to be our enemies; and that was expressed by him in the Commissar Order. Apart from the Commissar Order, I do not know to what extent he thought of annihilating such elements; he did not tell us that, nor did we receive an order to that effect.

COL. TAYLOR: Didn't he also think the Jews should be exterminated for exactly the same reasons?

VON MANSTEIN: That may be; but never once did he discuss the question of the Jews with me.

COL. TAYLOR: You didn't know anything about that?

VON MANSTEIN: No, I knew nothing of the plan of extermination.

COL. TAYLOR: I'd like to ask you a few more questions about the Einsatzgruppen and Einsatzkommandos. Are you telling the Tribunal that you did not know that one of the most important missions of those units was to assist in exterminating the commissars and the Jews in accordance with these policies?

VON MANSTEIN: No, I did not know that.

COL. TAYLOR: Was there an Einsatzgruppe attached to your army, the 11th Army?

VON MANSTEIN: Yes. As Ohlendorf has testified, this Einsatzgruppe was active in the area of my army.

COL. TAYLOR: I think you told us earlier that the Einsatzgruppe was entirely under the orders of Himmler for operational purposes. I think you also told us that Himmler was a bitter enemy

of the Army. What did you do when you learned there was an Einsatzgruppe attached to the Army? What were you told about it?

VON MANSTEIN: At that time it was reported to me—I do not even know if the name "Einsatzgruppe" was mentioned at the time—that organs of the SS were to investigate the population in the operational areas from a political point of view and that they had received orders for that from Himmler. I could not do anything against that, because I could not possibly assume that these units of the SS were given criminal tasks.

COL. TAYLOR: Is the commander-in-chief pleased to have an independent unit operating in his area which he cannot order around? Is that customary? Do you like it?

VON MANSTEIN: No, of course one does not like it, but then there were numerous other independent units. I should like to mention that the Air Force did not come under our command in any way. When we were fighting together we had to make arrangements with them. We could not give them any orders. The same applied to the Organization Todt and the organization of the Economic Staff East, and to the Police. In short, we were confined to the actual military leadership, and in the last analysis that is the best thing for a soldier because, according to popular judgment, he knows very little about other matters.

COL. TAYLOR: Did it not even arouse your curiosity to have an independent unit under Himmler's orders operating in your area? Did it not stimulate you to find out what it was doing?

VON MANSTEIN: The task of investigating the population for their political reliability was reported to me. I have already said that I was at army headquarters only for 2 or 3 days, after which I went to the front. I might say that the actual fighting made such demands on me during the entire winter when I was a commander that there was no room for curiosity about things of which I could have no idea.

COL. TAYLOR: You talked to the chief of staff and other staff officers from time to time, did you not?

VON MANSTEIN: I only met the other commanders-in-chief when there was a conference with any of them at the OKH. Naturally I talked to my officers. But this question of the SD never cropped up, because as far as we were concerned, it did not appear to us to be an important question.

COL. TAYLOR: Did you not ever ask your chief of staff or any staff officer to keep you very carefully informed on what these independent groups under Himmler were doing in your area?

VON MANSTEIN: No. One cannot speak of independent troops of Himmler, for this Einsatztruppe was comparatively small and

never put in an appearance. It only appeared when they supplied us with men for combating the partisans in the Crimea. I know that my staff was negotiating with the SS leader about that.

COL. TAYLOR: I have still two or three documents dealing with this matter which are already in evidence. I would like to show them to you and ask a few questions about them. The first one is the Affidavit Number 12, which is already in evidence. It is USA-557. The first part of this affidavit concerns matters which you probably do not know about directly. You should know about the second paragraph, certainly. This is an affidavit by Walter Schellenberg. I would like to read the first two paragraphs. The Tribunal will find this in the first document book on the General Staff.

"In the middle of May 1941, as far as I remember, the chief of Amt IV of the Reich Security Main Office (SS Brigadeführer Müller), in the name of the Chief of the Reich Security Main Office (SS Gruppenführer Heydrich), held discussions with the Generalquartiermeister of the Army (General Wagner) about questions connected with the operations of the Sipo and SD within the bounds of the Field Army during the imminent campaign against Russia. Wagner could come to no agreement with Müller, and therefore Heydrich asked to send another representative. I was at that time chief of Section E in Amt IV of the RSHA under the chief of Amt IV, Müller, and because of my experience with protocols I was sent by Heydrich to Wagner for the purpose of drawing up the final agreement. According to the instructions given to me, I was supposed to make sure that this agreement would provide that the responsible headquarters in the Army would be firmly obligated to give complete support to all activities of the Einsatzgruppen and Einsatzkommandos of the Sipo and SD. I discussed the problem of this mutual relationship in great detail with Wagner. In accordance with this discussion I then presented him with the completed draft of an agreement, which met with his full approval. This draft was the basis for a final discussion between Wagner and Heydrich towards the end of May 1941.

"The contents of this agreement, as far as I remember, were substantially as follows: Its basis was the Führer's order, mentioned at the very beginning of the agreement, that the Sipo and SD should operate within the combat elements of the Field Army with the mission of utterly smashing all resistance in conquered rear areas of the front as well as in conquered rear supply zones by every means and as quickly as possible. The various areas were then set down in which

the Sipo and SD were to be assigned and in which they were to operate. The individual Einsatzgruppen were then assigned to the army groups which were to take part in the campaign, and the individual Einsatzkommandos to the respective armies.

"The Einsatzgruppen and Einsatzkommandos were to operate in detail:

"1) In front-line areas: in complete subordination to the Field Army, tactically, technically, and as regards troop service; 2) in rear of conquered areas: in subordination to the Field Army only as regards troop service, but otherwise under the command and technical control of the RSHA; 3) in rear army areas: the same arrangement as in 2; 4) in areas of the civil administration in the East: same as in the Reich.

"The tactical and technical authority and responsibility of front-line headquarters of the Field Army over the Einsatzkommandos was not limited under the agreement and therefore needed no further clarification."

THE PRESIDENT: This is already in evidence, so we do not need the details.

COL. TAYLOR: It is in evidence. It was never read before. I have just one more paragraph I would like to read with your permission.

THE PRESIDENT: Proceed.

COL. TAYLOR: "The agreement made it clear that subordination as regards troop service embraced not only disciplinary subordination, but also the provisioning of rear headquarters of the Field Army, the Einsatzgruppen and Einsatzkommandos being subordinated in matters of supply (gasoline, rations, *et cetera),* as well as in the use of the communications network."

That is all that needs to be read, Your Honor.

Witness, is it now true that the Army made it possible for these Einsatzgruppen and Einsatzkommandos to operate; that you furnished them with the supplies and transports and other things they had to have to carry out their mission?

VON MANSTEIN: Yes, certainly. We know that because of the economic contribution the SS made to the Army.

COL. TAYLOR: Is it not also true that the commanding generals had to keep track of what these units were doing, so that their operations would not interfere with military operations?

VON MANSTEIN: No. Actually the commanding generals did not have to bother with the Einsatzgruppen unless they appeared

at the front and caused disturbance. As I have told you, I, as commanding general, did not meet any such Einsatzgruppe in my area.

COL. TAYLOR: Have you told the Tribunal it was only at the front where military operations could be disturbed? Is it not also true that rear areas are also important as regards the securing of communications and pacifying the population? Were you not concerned about the rear areas, too?

VON MANSTEIN: In the rear areas we were interested in securing our lines of supply, that is, the roads and railroads. Mostly we did this ourselves. A disturbance could only have taken place if, for instance, mass executions or some such things—as I have heard now did take place—caused difficulties and unrest amongst the population. The commanders of the rear areas would have heard about this, and they would certainly have interfered.

COL. TAYLOR: Your Honor, I would like next to read a little bit from Document 447-PS, in evidence as USA-135. May I call your attention to Paragraph 2, Subdivision a)., beginning with "The area of operations . . ." Do you see that?

VON MANSTEIN: Yes.

COL. TAYLOR: I would like to read two paragraphs:

"a). The area of operations created through the advance of the Army beyond the frontiers of the Reich and the neighboring countries is to be limited in depth as far as possible. The Commander-in-Chief of the Army has the right to exercise the executive power in this area, and may transfer his authority to the commanders of the army groups and armies.

"b). In the area of army operations, the Reichsführer SS is entrusted on behalf of the Führer with special tasks for the preparation of the political administration, tasks which result from the struggle which has to be carried out between two conflicting political systems. Within the realm of these tasks, the Reichsführer SS shall act independently and on his own responsibility. The executive power vested in the Commander-in-Chief of the Army and in agencies determined by him shall not be affected by this. It is the responsibility of the Reichsführer SS that through the execution of his tasks military operations shall not be disturbed. Details shall be arranged directly through the OKH with the Reichsführer SS."

I am asking you again, Witness, whether it was the responsibility of you and your headquarters to make sure that the operations of these groups did not interfere with military operations and that you must have kept yourself fully informed on what they were doing?

VON MANSTEIN: If there had been disturbance of military operations in any form, naturally the commanders would have had to intervene, but the fact that the Political Police supervised an occupied area and, in that occupied area, investigated the political reliability of people, is by no means reason to assume that wrongs were committed or that there were mass shootings, or any shootings at all, in this area. The political supervision by Political Police is a phenomenon which exists in every occupied territory.

COL. TAYLOR: I think you have already testified that you did not know of any mass shootings in your area. Is that right? You did not know of any?

VON MANSTEIN: No, I did not know of any.

COL. TAYLOR: I wish to present Document R-102, which is now in evidence as USA-470, and would like to read two paragraphs from the last page of the translation. I think the two paragraphs in question are marked in your copy. They are on Page 17 or 18. You will see the original report covering the activities of the Einsatzgruppen in the U.S.S.R. during the month of October, and it covers the activities of all four Einsatzgruppen, including Group D, which was attached to your army. The section beginning on Page 16 relates to the activities of the Einsatzgruppen C and D, which were in the Ukraine. Under that you will note Paragraph b, which is headed "Arrests and executions of Communists and functionaries." Do you find that?

VON MANSTEIN: Yes.

COL. TAYLOR: I quote:

"The search for leading Communists resulted in the arrest of Kaminski, former GPU chief of Cherson. In the years 1919 to 1921 he had carried out the liquidation of the Czarist officers. The head of the prison work shops of the NKVD was also caught.

"In Kiev a number of NKVD officials and political commissars were rendered innocuous."

And the next subheading "Jews." The first two paragraphs relate to cities outside your area, I believe. Then there is a paragraph which deals with Cherson. Cherson is about 40 miles from Nikolaievsk. Would you say that 60 kilometers would be right?

VON MANSTEIN: Yes, that must be right.

COL. TAYLOR: I quote:

"In Cherson 410 Jews were executed as a measure of retaliation for acts of sabotage. Especially in the area east of the Dnieper, the solution of the Jewish question has been taken up energetically by the Einsatzgruppen of the Security Police

and the SD. The areas newly occupied by the Kommandos were purged of Jews. In the course of this action, 4,891 Jews were liquidated. At other places the Jews were marked and registered. This rendered it possible to put at the disposal of the Wehrmacht for urgent labor Jewish worker groups up to 1,000 persons."

Are you still telling the Tribunal that you knew nothing of the operations of this Einsatzgruppe under your army?

VON MANSTEIN: If you mean the case of Cherson, then I have to tell you that I never received a report about such incidents, nor did I receive a report of the arrest of the GPU man, Kaminski. I remained in Nikolaievsk only until about 24 September; then I had my command post in the vicinity of Melitopol, which is far to the east. As far as the liquidation of Jews east of the Dnieper is concerned, I would point out that the operational zone of my army at that time was the Nogai Steppe, a steppe with very few settlements, and part of these settlements, former German villages, were completely evacuated and the inhabitants taken away by the Red Army. Therefore, there could not have been any liquidation of Jews worth mentioning, since there were hardly any Jews there. These 4,000 Jews can only have come from the district east of the Dnieper, that is, where the large operations of the Donets area started, and that was already the operational territory of the First Panzer Army; it was already beyond my territory.

COL. TAYLOR: Did the commanding generals on the Eastern Front submit special instructions to the troops which support this program to liquidate the Jews and commissars?

VON MANSTEIN: No, that is quite out of the question.

COL. TAYLOR: Did General Reichenau issue such an instruction?

VON MANSTEIN: No. I only know of one order of General Reichenau, which has been brought up in court, and in which he discusses the fighting in the East. This order was sent to us on Hitler's instructions as an example. I personally turned down the order and did not apply it in any way in the orders I issued, and I know of no other commander who attached any weight to it.

COL. TAYLOR: That order of General Reichenau instructed troops to take the most severe revenge on subhuman Jews and all elements of Bolshevism, did it not? Have you seen the order?

VON MANSTEIN: No, I remember that I received an order from General Von Reichenau, but I do not remember that it demanded the liquidation of the Jews, and I consider it entirely out of the question that he did order that.

COL. TAYLOR: What did you do yourself when it was suggested that you issue an order like General Reichenau's order?

VON MANSTEIN: It was not suggested to me. It was sent to us as an order of Hitler's as a model. I did nothing about it and I considered such an order as quite beside the point, because I wanted to conduct the fight in a military manner and in no other way.

COL. TAYLOR: So you did not do anything about it?

VON MANSTEIN: No, what should I have done?

COL. TAYLOR: I ask to be shown to the witness, as I said first, the document by General Reichenau. It is USA-556.

I will now ask that the witness be shown a new Document 4064-PS, USA-927.

Will you look at this order, Witness, and tell us if this is not a document issued out of your headquarters and signed with your facsimile signature, on 20 November 1941? It is already in the record.

VON MANSTEIN: I must first read the document thoroughly. I do not recollect this order.

COL. TAYLOR: Is that your signature?

VON MANSTEIN: It looks like it, but I must first of all read the order to see whether I gave it or not.

COL. TAYLOR: The document, as indicated at the top of the page, states "XXX. Corps Ref. IC." That is the intelligence office, is it not?

VON MANSTEIN: Yes, that is the name of the office that dealt with enemy intelligence and countering enemy espionage. It has nothing to do with Secret Service as such.

COL. TAYLOR: And just below there is a stamp of the 72d Division, 27 November 1941, Diary Number IC, and at the left it appears to have been issued by Army High Command XI at army headquarters, 20 November 1941. Secret. I quote:

"Since 22 June the German people have been engaged in a life-and-death struggle against the Bolshevist system.

"This struggle is not being carried on against the Soviet Armed Forces alone in the established form laid down by European rules of warfare.

"Behind the front too, the fighting continues. Partisan snipers dressed as civilians attack single soldiers and small units and try to disrupt our supplies by sabotage with mines and infernal machines. Bolshevists left behind keep the population freed from Bolshevism in a state of unrest by means of terror and attempt thereby to sabotage the political and economic pacification of the country. Harvests and factories are destroyed and the city population in particular is thereby ruthlessly delivered to starvation.

"Jewry constitutes the middleman between the enemy in the rear and the remainder of the Red Armed Forces which is still fighting, and the Red leadership. More strongly than in Europe it holds all the key positions in the political leadership and administration, controls commerce and trades, and further forms the nucleus for all unrest and possible uprisings.

"The Jewish-Bolshevist system must be exterminated once and for all. Never again must it encroach upon our European living space.

"The German soldier has therefore not only the task of crushing the military potential of this system. He comes also as the bearer of a racial concept and as the avenger of all the cruelties which have been perpetrated on him and on the German people.

"The fight behind the lines is not yet being taken seriously enough. Active co-operation of all soldiers must be demanded in the disarming of the population, the control and arrest of all roving soldiers and civilians, and the removal of Bolshevist symbols.

"Every instance of sabotage must be punished immediately with the severest measures and all signs thereof must be reported.

"The food situation at home makes it essential that the troops should as far as possible be fed off the land and that furthermore the largest possible stocks should be placed at the disposal of the homeland. Particularly in enemy cities a large part of the population will have to go hungry. Nevertheless nothing which the homeland has sacrificed itself to contribute may, out of a misguided sense of humanity, be given to prisoners or to the population unless they are in the service of the German Wehrmacht.

"The soldier must appreciate the necessity for the harsh punishment of Jewry, the spiritual bearer of the Bolshevist terror. This is also necessary in order to nip in the bud all uprisings which are mostly plotted by Jews.

"It is the task of leaders of all grades to keep constantly alive the meaning of the present struggle. Support for the Bolshevist fight behind the front by way of thoughtlessness must be prevented.

"The non-Bolshevist Ukrainians, Russians, and Tartars are expected to acknowledge the New Order. The nonparticipation of numerous alleged anti-Soviet elements must give place to a definite decision in favor of active co-operation against

Bolshevism. Where it does not exist it must be forced by suitable measures.

"Voluntary co-operation in the reconstruction of occupied territory is an absolute necessity for the achievement of our economic and political aims.

"It demands as a primary condition the just treatment of all non-Bolshevist sections of the population, some of whom have for years fought heroically against Bolshevism.

"The ruling of this country demands from us results, strictness with ourselves, and submergence of the individual. The bearing of every soldier is constantly under observation. It can make enemy propaganda ineffective or give it a springboard. If the soldier in the country takes from the peasant the last cow, the breeding sow, the last chicken, or the seed, then no restoration of the economy can be achieved.

"In all measures it is not the momentary success which is decisive. All measures must, therefore, be judged by their lasting effectiveness.

"Respect for religious customs, particularly those of Mohammedan Tartars, must be demanded.

"In pursuance of these concepts and other measures to be carried out by the later administration, such as the enlightenment of the population by propaganda, encouragement of personal initiative, for instance by rewards, significance must be given to extensive collaboration of the population for combating the partisans and to the development of the local Auxiliary Police.

"For the achievement of this object the following must be demanded:

"Active co-operation of soldiers in the fight against the enemy in the rear; no soldier to go about alone at night; all motor vehicles to be equipped with adequate armament; a self-assured, but not overbearing attitude on the part of all soldiers; restraint towards prisoners and the other sex; no waste of food.

"Severest action to be taken: against despotism and self-seeking; against lawlessness and lack of discipline; against every transgression of the honor of a soldier."

And it appears that it is to be distributed right down to the regiments and independent battalions.

Did you not issue that order as a result of the suggestion which came to you together with the Reichenau order? The resemblance between the two is, to say the least, striking and the date is about the same.

VON MANSTEIN: I must say that this order escapes my memory entirely. According to the signature and particularly what is contained in the last part, I must assume that the order is genuine and has been issued by me. Whether it was given on the strength of the Reichenau order or not I cannot possibly tell you now. But I do want to point out to you that if it says here that the system must be exterminated, then that is extermination of the Bolshevik system, but not the extermination of human beings.

I must further point out to you that nowhere is there mention of collaboration with the SD, a collaboration which, because of the lack of knowledge we had of the doings of the SD, was out of the question in this area. I must point out to you the demands which I made of my soldiers—namely, that they must not take the last cow away from the farmers, that they must respect religious customs, that they must respect the other sex and that, on the other hand, they naturally must not be careless of the danger of partisans, as unfortunately the German soldier always was. I point out to you that any wilfulness and any self-seeking is expressly prohibited, also any barbarism, any lack of discipline, and most of all any breach of the honor of a soldier.

COL. TAYLOR: You were asked about the General Reichenau order before the Commissioner, were you not? You were asked, and I read on page—I will have to find the page, Your Honor. I have a typed copy here, Your Honor, without the final page reference.

Were you questioned before the Commissioners as follows:

"You know the order of General Reichenau in which he stated that there should be no consideration shown to the civilian population? Did you see the order, and did it have any influence whatever on your attitude and that of your troops to the civilian population?"

And you answered:

"We were informed of this order upon the suggestion of the Führer, but none of the other leaders were of the same opinion as Reichenau, and it was never carried out, especially in my area."

You had not forgotten the Reichenau order, had you?

VON MANSTEIN: I had quite forgotten the Reichenau order until it appeared amongst the documents here, and I have no recollection especially of this order of mine. After all, that is not surprising, because that is a number of years ago, and during these years I have signed hundreds, if not thousands, of orders, and I cannot possibly remember every detail.

COL. TAYLOR: Did you sign a lot of orders like this one? Is that why you have such difficulty remembering it?

VON MANSTEIN: No, I certainly have not signed a lot of orders like this one, but I have signed a lot of other orders. Above all, I had to write and read a large number of reports and if I forgot this order, a fact which I admit, it is not surprising. I only know that this order, at any rate, as opposed to the Reichenau order, very strongly emphasizes the demands which I made for decent behavior on the part of my soldiers. That, after all, is the important point.

COL. TAYLOR: You remember the Reichenau order, and you remember that it was suggested that you pass it down, and the only thing you have forgotten is that you did?

VON MANSTEIN: No, I said that I remembered the Reichenau order only when I came here, when it was shown to me among other documents and when I was before the Commission; also that, try as I may, I did not recollect giving that order. If I had done so, I would most certainly have mentioned it, because the first part of the order is absolutely contrary to my conceptions.

COL. TAYLOR: You think that you wrote the second part and not the first?

VON MANSTEIN: I did not write the order at all myself. Very probably the order was shown to me in draft and then I signed it. If the first part mentions the fight against the system and the extermination of the system as well as the fight against the Jews as the supporters of the partisan movement, in the last analysis it had its proper justification. But all that has nothing to do with the fact that Jews were to be exterminated. They were to be excluded, and the system was to be removed. That is the point that matters.

COL. TAYLOR: I think you told the Tribunal a few minutes ago that you did not even know that Jews were likely to be opposed to the new administration. It looks as if you very definitely wrote that for the attention of your soldiers, doesn't it?

VON MANSTEIN: No, I did not know that, and this order that Jews were to be exterminated cannot possibly recall it to my memory because it does not mention a word that the Jews were to be exterminated. It merely says that the system is to be exterminated.

COL. TAYLOR: I call your attention to the paragraph:

"The soldier must appreciate the necessity for harsh punishment of Jewry, the spiritual supporters of the Bolshevist terror. This is also necessary in order to nip in the bud all uprisings, which are mostly plotted by Jews."

Now, I ask you, Witness, the Einsatzkommandos could not have liquidated Jews without the soldiers knowing something about it, could they? Is that true?

VON MANSTEIN: That is perfectly possible, because as Ohlendorf has described it, the shootings of the Jews were camouflaged as "resettlement." The Jews were taken to desolate places and were shot and buried there, so that it is quite certain that the commanding authorities had no knowledge of that. Naturally, it is possible that some soldier or other, quite by accident, may have seen such an execution, and there is in fact evidence of it. I remember in the Russian indictment the description by an engineer who was present during such a shooting, I believe in the Ukraine in the vicinity of Shitomir or Rovno, and described it in most horrible terms.

One can only ask why that man did not report it to the command post. The answer is that the fear of the SS was such that this man, instead of reporting this dirty business, kept it to himself and now comes out with it. At that time—it was not in my area, but somewhere else—had he gone to some high military command post and described these events, then I am convinced that the commander in question would have intervened; and then, of course, we would also have heard of it. But the fact is that we did not hear about it.

COL. TAYLOR: One more question on this subject, Your Honor.

[Turning to the witness.]

Witness, isn't it true that this order is very carefully drawn so that the troops would understand and, shall we say, sympathize with what the Einsatzkommandos were doing in the way of mass extermination of Jews?

VON MANSTEIN: You mean my order?

COL. TAYLOR: Yes.

VON MANSTEIN: No. There can be no question that I at any time urged my troops, even between the lines, to co-operate in such methods. How could I have concluded by stressing the soldier's honor?

COL. TAYLOR: My Lord, the Prosecution has no further questions of this witness.

THE PRESIDENT: We will adjourn now.

[The Tribunal adjourned until 12 August 1946 at 1000 hours.]